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REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION OF THE FORTY-NINTH CONGRESS

1885-'86.

IN ELEVEN VOLUMES.

Volume 1.—Nos. 1 to 90, inclusive, except No. 46.
Volume 2.—No. 46, part 1.
Volume 3.—No. 46, part 2.
Volume 4.—Nos. 91 to 392, inclusive.
Volume 5.—Nos. 393 to 784, inclusive.
Volume 6.—Nos. 785 to 1088, inclusive.
Volume 7.—Nos. 1089 to 1315, inclusive, except No. 1278.
Volume 8.—No. 1278, parts 1 and 3.
Volume 9.—No. 1278, part 2.
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* Changed to Mis. Doc. No. 75.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 785.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1673.]

The Committee on Pensions, to whom was referred the bill (S. 1673) granting a pension to Charles G. Paris, have examined the same, and report as follows:

It appears from the records in this case that claimant enlisted and was mustered into the United States service on the 14th day of August, 1862, and was discharged March 24, 1863. Declaration for pension filed June 4, 1880, alleging injuries to eyes. Claim rejected March 2, 1885, on the ground that disability existed prior to enlistment.

Claimant's statement is substantiated by affidavits of commanding officers and his comrades; and the hospital records also show his statement to be correct.

Claimant's statements are further corroborated by the testimony of neighbors, that he was free from disease of the eyes when he enlisted, and the fact that he was accepted and mustered into the service further substantiates his statement. Affidavits of neighbors are presented confirming the statement that his eyes were diseased when he returned from the Army, and the reports of the special examiners and examining boards are to the effect that claimant now has disease of the eyes.

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 786.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2160.]

The Committee on Pensions, to whom was referred a bill (S. 2160) granting a pension to Mary J. Hagerman, have examined the same, and report:

The petitioner is the widow of Hiram P. Hagerman, late of Company G, Fifteenth Ohio Volunteer Infantry. Her husband was pensioned for a severe wound in his arm, which rendered it helpless, and caused him much suffering. The physician who attended him in his fatal illness says he died from malarial fever, brought on by overexertion. The wound, if not directly, was doubtless indirectly the cause of his death. In his disabled state he was compelled to labor as he best could for the support of his family. His overexertion brought on an illness of which he died, and his widow and children are thus prematurely deprived of his individual efforts for their maintenance, and of the small pension allowed him.

The bill is reported favorably, with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 787.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2147.]

The Committee on Pensions, to whom was referred the bill (S. 2147) granting a pension to George Faulk, have examined the same, and report as follows:

The records in this case show the claimant enlisted October 9, 1862, and was sent to Camp Cleveland, Ohio, where claimant did all the duties assigned him, until about January 12, 1863, when he contracted inflammation of the lungs, and was so seriously sick that when the mustering officer came he would not muster claimant into the service, and he was discharged.

The affidavit of his commanding officer states that claimant was a rugged man from the time of his enlistment until he was taken sick in January.

Declarature for pension filed August 23, 1884, alleging disease of lungs, hemorrhage, and dizziness or fits, and general debility. Claim rejected on the ground that claimant was a rejected recruit and never in the service of the United States.

The testimony is to the effect that claimant was sound and rugged prior to enlistment, and that the disease which has permanently disabled him was incurred while the regiment was waiting to be mustered into the United States service. Had claimant been mustered in the day he enlisted, and then have incurred the disabilities proven, he would have been entitled to pension from the Pension Office; that he was not mustered in was no fault of claimant, as he waited from October 5, 1862, until January, 1863, in camp, doing all the duties assigned, and waiting to be mustered in.

The certificate of the examining surgeons of the Pension Office, dated September 24, 1884, states that the claimant has a serious disease of the heart, and rate his disability total.

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 788.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2009.]

The Committee on Pensions, to whom was referred the bill (S. 2009) granting a pension to David A. Ireland, have examined the same, and report:

That the records in this case show that claimant was mustered into the United States service August 25, 1862, and was captain of Company C, Fiftieth Regiment Ohio Volunteers.

The records show that claimant was "thoroughly examined" before being mustered in, and that he was an active man and a good officer up to the time of the injury, which occurred during the battle of Kenesaw, Ga., July 2, 1864. Declaration for pension filed October 17, 1878, alleging hernia.

Claim rejected November 10, 1885, on the ground that disabilities existed prior to enlistment.

The captain of the company with whom claimant originally served testifies that he was a sound man when he enlisted. The lieutenant-colonel testifies to the same thing, and several comrades (orderly sergeant, first sergeant and privates) corroborate his statement.

During the fight at Kenesaw, claimant was ordered to throw up breastworks, and while engaged in carrying rails for this purpose claimant fell into a trench and ruptured himself, and he was so badly ruptured that he was picked up and carried to the rear, where the rupture was reduced and properly attended to by the assistant surgeon and hospital steward, the surgeon's certificate being on file.

In addition the testimony of several neighbors is given, corroborating the statement that claimant was sound and free from rupture before enlistment, and that after he returned home he was seriously ruptured.

The reports of the special examiners connected with the Pension Office, who examine the witnesses under oath, all show that the rupture was produced as stated by claimant, and finally the board of examiners, consisting of three physicians, make a certificate under date of April 23, 1884, to the effect that the claimant's disability was incurred in the service, that he has a hernia as stated, and they rate his disability as one-half total.

The committee find it difficult to understand why it is that this claim was rejected by the Pension Office, when there is such an array of evidence to substantiate it.

In view of the facts and taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

IN THE MATTER OF THE UNITED STATES

April 2, 1968—Ordered to be printed

Mr. MAYNARD, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

(To accompany H.R. 2246)

The Committee on Interstate and Foreign Commerce, to which was referred the bill (H.R. 2246) [illegible]

[illegible] the Port of Miami Service Station, 2[illegible], and was operated by Company G, [illegible] employees.

The company's [illegible] was [illegible] "[illegible]" beginning [illegible] and ended [illegible] and a good office [illegible] up to [illegible] the [illegible] [illegible] 1, 1968. [illegible] [illegible] 1, 1968, [illegible] [illegible] [illegible] [illegible].

Under [illegible] of November 13, 1967, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

The [illegible] of the company [illegible] [illegible] [illegible] [illegible] [illegible]

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 789.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1960.]

The Committee on Pensions, to whom was referred the bill (S. 1960) granting an increase of pension to James W. McCroskey, have examined the same, and report:

That it appears from the records in this case that claimant was a corporal in Company B, Fifth Regiment Iowa Volunteers, and enlisted July 15, 1861, and was discharged July 30, 1864.

In July, 1863, claimant received a wound in right hand at Vicksburg, for which he has drawn a pension of $1 per month; but the records show that from the time he left the service until now claimant's health has continued to fail steadily, by reason of heat stroke received near Vicksburg, Miss. The certificates of the board of examining surgeons of the Pension Office, dated March 10, 1879, October 17, 1881, and May 17, 1882, respectively, report claimant's disabilities increasing, and that he has disease of the lungs and disease of the heart.

Taking into consideration all the evidence on file in the case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 790.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2028.]

The Committee on Pensions, to whom was referred the bill (S. 2028) granting a pension to E. S. Bishop, have examined the same, and report:

The petitioner was a private in Company A, Eleventh Missouri Volunteers. He enlisted July 6, 1861, and was discharged January 29, 1863. He applied for pension February 20, 1882, claiming disability from chronic diarrhea resulting from typhoid fever. The Commissioner of Pensions denied the claim on the ground that no pensionable disability has existed since discharge. It is in evidence that he was sick with typhoid fever and diarrhea while in the service, and that he is still so disabled that he cannot labor. From a careful examination the committee are of the opinion that the soldier has established his claim by reliable evidence. The bill is reported favorably, with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 791.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2253.]

The Committee on Pensions, to whom was referred the petition of citizens of Beaver Falls, Pa., in behalf of Elizabeth Sirwell, have examined the same, and report:

Elizabeth Sirwell is the widow of the late William Sirwell, who was colonel of the Seventy-eighth Regiment Pennsylvania Volunteers. He was mustered into the service in August, 1861, and discharged in November, 1863. He applied for a pension for disabilities incurred in the service and in the line of duty, and in March, 1883, he was pensioned at the rate of $7.50 for deafness. He applied for an increase, which was not allowed, and just prior to his death, for some cause unknown to him, his pension was discontinued.

It appears from information received by the committee that his fatal illness was protracted, that he was a great sufferer, that it was attended with heavy expense, and that he died leaving his family quite destitute. The committee do not assume that under the rules and practice of the Pension Office there is evidence of the kind that is required to establish a widow's claim, but they believe that the age and poverty of the widow and her family, and in view of the faithful service of her late husband, justify an exception in her favor.

The accompanying bill is therefore reported for her relief, with a recommendation that it do pass.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 792.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2254.]

The Committee on Pensions, to whom was referred the petition of Mary von Kusserow, have examined the same, and report:

The petitioner is the widow of Charles von Kusserow, who was appointed first lieutenant Third Independent Battery, New York Light Artillery, in January, 1862, and in December of the same year was appointed captain. On the 4th of June, 1865, he was commissioned lieutenant-colonel of United States Veteran Volunteers, and was mustered out March 30, 1866. The officer died of disabilities, the incurrence of which were by competent proof connected with his service, and the widow was allowed $20 a month, the pension rating with the rank of captain. She has since applied for an increase of pension corresponding with her husband's rank as lieutenant-colonel, which was his rank at the time of his death, but it was denied by the Pension Office on the ground that the diseases of which the officer died originated while in the line of duty as captain.

During the protracted pendency of her case in the Pension Office, Major-General Hancock, to whose command Lieutenant-Colonel Kusserow belonged, repeatedly wrote to the Commissioner of Pensions, and in his letters referred to the worthiness of the officer, and urged action on the case. In November, 1880, the Commissioner wrote to the petitioner detailing the difficulties in the way of granting her request, but concluded by informing her that in view of the fact that "he received a sunstroke in 1865, he failed thereafter to enjoy his usual health, I have deemed it proper to cause a reissue to be made in your case, and to allow you a pension as the widow of a lieutenant-colonel."

In consideration of these facts, the committee report a bill for the relief of the petitioner, giving her the pay corresponding with the rank of a lieutenant-colonel, which was her husband's rank when he died, and recommend that it do pass.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 793.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2255.]

The Committee on Pensions, to whom was referred a bill (S. 2255) granting a pension to Patrick Finagan, have examined the same, and report:

The claimant in this case was a private in Company A, first battalion, Sixteenth United States Infantry. He was captured at Chickamauga, Ga., September 19, 1863, was confined in prison at Richmond, removed to Danville, Va., and was finally transferred to Andersonville. It is in evidence that he was sound when he enlisted, that he was disabled by scurvy and constipation, and finally became insane as a result.

The committee report the accompanying bill for his relief, with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 794.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1764.]

The Committee on Claims, to whom was referred the bill (S. 1764) for the relief of Washington Wright and Simon Basye, surviving trustees of the Shiloh Baptist Church at Fredericksburg, Va., have considered the same, and respectfully report:

The claimants in their petition state that they "are the surviving trustees of the Shiloh Baptist Church of Fredericksburg, Va.," and "that the building owned and used by the colored Baptist people of Fredericksburg as a house of worship was injured by the shot and shell from the batteries of the Union Army at the battle of Fredericksburg in December, 1862; that when General Burnside moved his army across the Rappahannock and attacked the Confederate forces his medical officers took possession of this building for hospital uses; that in order to fit it for use for the exigencies of the pending battle, said officers tore up and removed all the pews, part of the galleries, all the window sash and blinds, one of the floors, and the furnace, all of which were thrown out in a mutilated condition and were burned up or otherwise destroyed; that said building was left in this dismantled and ruinous state when General Burnside moved his forces from Fredericksburg."

At the first session of the Forty-eighth Congress this committee submitted an adverse report (Report No. 489) to accompany the several memorials of the trustees of the Methodist Episcopal Church at Falls Church, Va.; Fairfax Court-House, Va.; Dumfries, Va., and Arlington, Va., and the petition of William M. Benkley, chairman of the committee of the Virginia Conference of the Methodist Episcopal Church, praying for compensation for the destruction of the church buildings and furniture belonging to said organizations, and the memorial of Mount Crawford Methodist Church, through its trustees, praying for compensation for the value of a portion of the material belonging to the Mount Crawford Church, in the State of Virginia, from which we quote the following:

It appears that this property at the time of its destruction was in that part of the State of Virginia which was the scene of early hostilities in the war of the rebellion. The church buildings were used as block-houses and were loop-holed for musketry. On other occasions they were used as hospitals for the sick and wounded. The pews were taken out and the timber and bricks carried off to construct winter quarters for the troops.

It will be seen from the foregoing that the cases are similar, and, applying the principles which governed the committee in that case, and which are fully stated in that report, and which have governed the committee in numerous other like cases, your committee are reluctantly compelled to deny relief to the claimants in the present case, and recommend that the bill be indefinitely postponed.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 795.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 507.]

The Committee on Claims, to whom was referred the bill (S. 507) for the relief of Mrs. Amy M. Rogers, respectfully report:

This is a claim for the value of provisions, grain, and provender alleged to have been taken and used; for fences, furniture, &c., alleged to have been destroyed; and for damages to a dwelling-house and other buildings, the property of Mrs. Amy M. Rogers, at East Knoxville, Tenn, by United States soldiers in command of General Burnside during his occupation of that place in the fall of 1863; and for the use of said dwelling-house for a period of eight weeks, during and immediately after the siege of Knoxville, by the Federal forces for the care of the sick and wounded men of the Eighth Tennessee Regiment Infantry Volunteers; and the use of said dwelling-house by camp followers and soldiers after the use of it for hospital purposes had ceased. The claim is now for the first time presented for payment.

It appears from the petition that whatever provisions, grain, and provender were taken and used by the soldiers were taken not only without authority from the officers in command, but that the necessities of the men were so great that they could not be controlled by their officers. It does not appear by whose order the dwelling-house was occupied as a hospital.

The rules adopted by this committee in similar cases forbid the payment of this claim in whole or in part. The taking and use and the destruction of petitioner's property appear to have been wanton depredations by the troops, for which the Government is not liable. The use of the dwelling-house for hospital purposes was a taking of property for military use in the prosecution of necessary military operations during a state of actual war, and gives no legal right to compensation.

Besides, the testimony, in the opinion of your committee, is insufficient from which to make a safe estimate of the amount of property taken and used, of the damages to the petitioner's property by the troops, or of the value of the use of the dwelling-house for hospital purposes, and the petitioner has not satisfactorily explained the long delay in making a claim for relief.

Your committee, therefore, recommend that the bill do not pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 796.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1517.]

The Committee on Claims, to whom was referred the bill (S. 1517) for the relief of Elizabeth E. Sinclair, have considered the same, and respectfully report:

This claim is for the value of property belonging to Col. Hardeman Owens, alleged to have been destroyed by United States soldiers in 1833 in the Creek Nation, now Russell County, Alabama.

The claimant states in her petition among other things that she is the only surviving child and heir of Col. Hardeman Owens, deceased, whose property was destroyed and who was murdered in July, 1833, by United States soldiers, at that time stationed at Fort Mitchell, in the Creek Nation; that said Owens had in January, 1832, moved with his family from Columbus, Ga., to the Creek Nation, where he had bought land of an Indian chief named John Carr, and was, at the time of his death, engaged in farming and in keeping a house of entertainment, and was buying the Indian reserves for a land company located at Columbus. A list of personal property alleged to have been destroyed, with an estimate of its value, accompanies the petition. The affidavits of the claimant and other witnesses are filed with the papers. The claimant states the circumstances of the killing of her father and the destruction of his property in detail.

The substance of her statement is that on the 30th of July, 1833, a United States marshal, accompanied by a lieutenant and sergeant and thirty-five soldiers from Fort Mitchell, Ala., came to her father's house; that the marshal sent for the chief, John Carr, who came with his warriors, and her father sent for two white men who lived in the neighborhood; that the marshal inquired of the Indians if they had any complaint to make against her father, who replied through their chief that they had not; that the marshal also inspected her father's land certificate.

This, she states, was not an unusual proceeding, as troops were sent through the nation occasionally to see that the whites were not intruding on the Indians; that before the marshal left that day he notified her father that he (her father) must leave the nation immediately; that the next morning her father, being told by a half-breed that he had heard orders given to the soldiers and Indians to kill him, sent his family to a neighbor's house and afterwards followed them and reported that he had been shot at twice by soldiers before he left his house, and

had jumped out of the back window and made his escape; that at ab 5 o'clock p. m. on the next day, her parents, supposing the soldi were gone, returned home and found everything destroyed except house, and that while they were looking at the wreck of the prope a negro woman warned her father that the soldiers had returned, a in attempting to make his escape he was shot by a soldier who was c cealed behind a pine tree.

Owing to the youth of the claimant when the transaction occur (she being but ten years of age at the time) and the length of the ti which has since elapsed, your committee are inclined to take her sta ment *cum grano salis.*

If this were a case in which any relief should be granted, the pr ence of the United States marshal and his order to Colonel Owens leave the territory of the Creek Nation would require further expla tion. Further evidence would also be required as to the descript and value of the property destroyed. But the view which your co mitttee takes of this case renders the testimony on those points imp terial. Relief must be denied the claimant under the principles wh have heretofore governed the committee in similar cases. The destr tion of claimant's property was either lawful under a process of a co as seems probable from the presence of the United States marshal, in pursuance of lawful orders of the military authorities, or was wanton depredation of the soldiers, for which the Government is liable.

The committee therefore recommend that the bill do not pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 797.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1094.]

The Committee on Claims, to whom was referred the bill (S. 1094) for the relief of Thomas A. McLaughlin, have examined the same, and report as follows:

By the bill under consideration it is proposed to appropriate the sum of $824.22, in payment for extra work done by the claimant in the construction of the central gate-house in the distributing reservoir of the Washington Aqueduct.

A bill for the relief of the claimant was reported favorably, with an amendment reducing the amount to $150, from the Senate Committee on Claims at the second session of the Forty-eighth Congress.

The following is a copy of said report:

The bill directs the Secretary of the Treasury to pay to Thomas A. McLaughlin, out of any money in the Treasury not otherwise appropriated, the sum of $824.22 "in full payment for extra work done in the construction of the central gate-house in the distributing reservoir of the Washington Aqueduct, and for loss of material occasioned by turning water into said reservoir before the completion of said gate-house." It appears from the papers in the case that on the 13th March, 1872, the said McLaughlin entered into a written contract with O. E. Babcock, major of Engineers, U. S. Army, and chief engineer of the Washington Aqueduct, for the full and final completion of the central gate-house in the distributing reservoir of said aqueduct; that by the terms of said contract McLaughlin was to furnish all the material and labor necessary for the construction of the work, which was to be performed according to certain specifications and drawings, which were annexed to and made part of the agreement.

The prices for the different parts of the work were separately set forth in the contract; thus for *stone masonry* the contractor was to be paid $14.90 per cubic yard, and the approximate estimate of the quantity of *this* work was set out in the specifications as 648 yards. But it was provided that the prices and amounts to be paid under the contract referred simply to the quantities of work which should be done, as the final measurements of the work might prove them to be. It was further stipulated that "if the quantities be increased such increase shall be paid for only according to the actual quantities and at the prices established under this contract." The right to make alterations was reserved, and it was distinctly provided that "in all questions regarding the work the *decision* of the engineer (which was deemed to mean either the chief or assistant engineer employed upon the work) *shall* be *final*." The work was to be fully completed by the 1st day of June, 1872. This time was subsequently extended, at the request of the contractor, to July 1, 1872, in order to allow him to build the structure of Seneca stone. It was further provided that "a penalty of $5 per day for each and every day's delay beyond the time mentioned for the completion of the work will be charged to the contractor, and the amount of said charges shall be forfeited to the United States as *liquidated damages*."

The work was not finished until some time in February, 1873, making a delay of over two hundred days, for which, under the "liquidating damages" clause, the contractor might probably have been subjected to a charge of $1,000, or more.

Payments were made the contractor during the progress of the work to the extent of $14,371.24, and on the 3d March, 1873, the assistant engineer, Colonel Samo, made his final estimate of the total amount of work done to that date on the gate house of the distributing reservoir by the contractor, which aggregated the sum of $15,577.18, and showed a balance of $1,205.94 still due McLaughlin, which balance was paid him. This estimate of the assistant engineer set out each item of the work separately, the *stone masonry* being estimated at 734.09 cubic yards, which, at $14.90 per cubic yard, made the sum of $10,937.94. After this estimate and settlement of the balance shown to be due him, McLaughlin, under date of April 11, 1873, addressed to General O. E. Babcock, engineer in charge of the aqueduct, a communication calling his attention to "an inclosed bill for work done upon the gateway of the distributing reservoir which was not included in my contract. The walls are thicker than those laid down on the plans originally submitted, and the slopes and ends are all finished in a different manner. Colonel Samo's measurements of the masonry were made from the drawings, and the amount allowed by him is less by 45 yards than I am entitled to according to the mode of measurement universally adopted in this District."

The bill thus submitted by McLaughlin was as as follows, viz:

WASHINGTON, *April* 5, 1873.

Amount of work at central gate-house distributing reservoir, and not included in estimate:

(1) 45½ yards masonry, at $14.90	$675 25
(2) 100 loads of sand lost by filling reservoir with water	100 00
(3) 13 barrels of cement	24 00
(4) Ditching and bailing water, filling back of masonry, cleaning and repairing damages caused by filling reservoir with water	200 00
(5) For loss on material and labor on account of change of plan	150 00
	1,149 25

This letter and claim of the contractor was referred by the chief to the assistant engineer, who, under date of April 14, 1873, returned the following report thereon:

OFFICE OF THE WASHINGTON AQUEDUCT,
Washington, D. C., April 14, 1873.

GENERAL: I respectfully submit the following statement in reference to the letter and account of Mr. T. A. McLaughlin, for extra work on the central gate-house, referred to me this day for report.

The first item of Mr. McLaughlin's account is "To 45½ yards of masonry at $14.90, $675.25." In reference to this item, Mr. McLaughlin states that the amount allowed him is less by 45 yards than he is entitled to, according to the mode of measurement universally adopted in the District. He also states that the walls are thicker than those laid down on the plan, and that my measurements were made from the drawings. It is true that the walls are thicker than shown on the original plan. At the top they are 3½ feet thick; on the original plan they were 2½ feet. The contract expressly provides that "the quantities and dimensions of the work may be altered from what is shown on the plan," and that "if the quantities be increased, such increase shall be paid for only according to the actual quantities, and at the prices established in the contract."

In making the final estimate, I measured the work as built, and calculated the quantities from the actual measurements.

I do not know what the custom is here, but I believe an allowance is sometimes made for cutting square corners. In the contract it states as follows: "It is hereby understood that the prices and amounts paid under this contract refer simply to the quantities of work which shall be done, and no claims growing out of misconception of the quantities or kind of work" "are to be allowed or considered valid."

The second item is for 100 loads of sand lost by filling reservoir with water, $100.

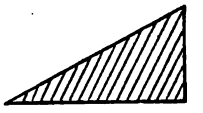
The third item is for 12 barrels of cement, $24. I do not remember that any cement was damaged by filling the reservoir. The contractor was notified that the reservoir was to be filled, and I think he could have removed the cement to a safe place. The sand was damaged and washed away; I cannot say to what extent. The reservoir was not filled with water until after the time for the completion of the contract.

The fourth item is for ditching and bailing water, filling back of masonry, cleaning and repairing damages caused by filling the reservoir with water, $200.

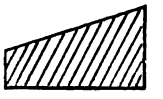
The contract states that all bailing, pumping, damming, and draining shall be at the expense of the contractor. The back filling was included under the head of excavation in final estimate.

The fifth and last item, "for loss on material and labor on account of change of plan," $150.

The plan has not been changed. In this item, I believe, Mr. McLaughlin refers to the manner in which I required the top course of stones to be cut for the wing wall. The contract states that vertical joints shall be "full to the square" for at least 10 inches. The top of the walls has a slope of 2 to 1, and the stone-cutters commenced to cut them like this:



The result was that the edge of the stone, being cut so thin, would get broken, and the joint would not be full to the square for over 1 inch. I therefore directed them to cut like this:



All the work done by Mr. McLaughlin was well done, and done strictly in accordance with the terms of his contract and specifications, with the single exception that he did not complete it within the time specified.

Very respectfully, your obedient servant,

THEODORE B. SAMO,
A. E. W. A.

General O. E. BABCOCK, U. S. A.,
Chief Engineer, Washington Aqueduct.

The claim of the contractor was thereupon disallowed by the chief engineer—it appearing that McLaughlin was mistaken in supposing that Colonel Samo's estimates of the masonry were made from the *drawings instead of actual measurement* of the work. McLaughlin subsequently applied to Congress for relief, and several reports have been made by the House Committee on Claims, at the third session Forty-fifth, second session Forty-sixth, first session Forty-seventh, and first session Forty-eighth Congresses, favoring an allowance of the first and last items of his account, amounting to $224.22, the sum which the present bill proposes to pay him. The item of 45⅓ yards of masonry, at $14.90, making $675.25, which it is claimed was not included in the final estimate of the assistant engineer above referred to, is sought to be sustained by the testimony of John C. Harkness, who testifies that for many years he has been a builder and architect and measurer of builder's work, &c.; that in April, 1873, after the completion of the gate-house, he measured the stone masonry done by McLaughlin upon said work, and found after a careful and accurate measurement that said masonry amounted to 779$\frac{11}{27}$ cubic yards, or 45⅓ cubic yards more than estimated by the assistant engineer. What mode of measurement was adopted by said Harkness does not appear.

It seems that according to some modes of measurement prevailing in the District allowances beyond the actual quantities are made for cutting square corners. But by the express terms of the contract the prices and amounts to be paid referred simply to the *actual* quantities of work which should be done. Even if such allowances were not made by Harkness there is nothing to show that his measurements and estimates were more accurate and more entitled to consideration than those of the assistant engineer. Again, by the terms of the contract it was agreed that "in all questions regarding the work the decision of the engineer shall be final." Under those circumstances the evidence fails to satisfy your committee that there was a mistake of 45⅓ cubic yards against the contractor in the final measurement and estimate made by Colonel Samo, for which the sum of $675 is claimed, and in the opinion of your committee this item should be disallowed.

The items of $100 for 100 loads of sand, $24 for 12 barrels of cement, and $200 for ditching and building water filling in back of masonry, cleaning off mud and repairing damages caused by filling reservoir with water should be disallowed. It appears that the reservoir was not filled till July 24, 1872, twenty-four days after the expiration of the extended time for completing the work, and that due notice was given McLaughlin that the reservoir was to be filled, and that he had ample time to remove his sand and cement to a place of safety. It also appears from the statement of the assistant engineer that the filling in back of masonry was included in his final estimate, while the draining, bailing, &c., was to be done at the expense of the contractor.

The last item of $150 for loss on material and labor on account of change of plan refers, as appears from above statement of the assistant engineer, to certain changes which he required should be made in the cutting of the top course of stones for the wing walls, which alterations involved loss to the contractor, for which, in the opinion of the engineer, a reasonable amount should be allowed him. The testimony fixes that allowance at $150, which, in the opinion of your committee, should be paid to McLaughlin in full of his claim.

Your committee accordingly recommend that the bill be amended by striking out the words "eight hundred and twenty-four dollars and twenty-two cents" in lines 6 and 7, and inserting in lieu thereof the words "one hundred and fifty dollars," and, as thus amended, that the bill be passed by the Senate.

Since the foregoing report was made additional affidavits of John C. Harkness and William Henderson have been filed, in which said witnesses state in effect that said Harkness, in making his measurement recited in his former affidavit, made no allowances for cutting square corners, nor any other allowances under any mode of measurement then prevalent in the District of Columbia, but only actual measurements of the work.

A letter from General Babcock to the claimant, dated December 8, 1873, filed among the papers, contains the following:

The first item of your bill is for 45¼ yards of masonry, at $14.90, amounting to $675.25. In reference to this item you state that the amount allowed you is less by 45 yards than you were entitled to according to the mode of measurement universally adopted in the District.

It would seem from this reference to the mode of measurement adopted in the District that the manner in which the work was measured by the assistant engineer had not been, in the judgment of the claimant, in accordance with that adopted in the District, but this difference in the mode of measuring masonry is not explained, and it is now claimed that the measurement made by the witness Harkness was only of actual work.

It would be a dangerous precedent to establish, for Congress upon *ex parte* affidavits to set aside a measurement made by a Government engineer of Government work under a contract which provides that the decision of the engineer upon all questions regarding the work shall be final.

Your committee, therefore, recommend that the bill be amended by striking out the words "eight hundred and twenty-four dollars and twenty two cents," and inserting in lieu thereof the words "one hundred and fifty dollars," and as thus amended that the bill do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 798.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. COLQUITT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 790.]

The Committee on Pensions, to whom was referred the bill (S. 790) granting a pension to Jesse C. Osgood, have examined the same, and report:

That the claim was rejected by the Pension Office on the ground that the disability for which applicant claims pension existed prior to enlistment. Upon examination of the papers submitted to the committee no evidence of the applicant's disability appears except his own statement, and from that statement it does not appear that the disability was incurred during his service or was the result of his service. Your committee recommend that the bill be indefinitely postponed.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 799.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. COLQUITT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 781.]

The Committee on Pensions, to whom was referred the bill (S. 781) granting a pension to John T. Sayers, have examined the same, and report:

That there is no record of any disability, no medical treatment, and no proof of alleged injury. The applicant admits that he is unable to furnish such proof, and that he remembers the name of only one man in his company, and that is the name of his captain, who is dead. He cannot recall the name of any comrade, except as Tom, Dick, and Harry.

The committee recommend that the bill be indefinitely postponed.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 800.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. HAMPTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1411.]

The Committee on Military Affairs, to whom was referred the bill (S. 1411) "granting the Hanson and Atlantic Beach Railway Company the right of way through the military reservations at Saint Augustine, State of Florida," report the same back to the Senate, with accompanying papers from the Department of War, and recommend its indefinite postponement.

WAR DEPARTMENT,
Washington City, April 3, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d ultimo, inclosing, for such recommendation as I may desire to make thereon, Senate bill 1411, "to grant to the Hanson and Atlantic Beach Railway Company the right of way through the military reservations at Saint Augustine, Fla."

In reply, I beg to invite attention to the inclosed report of the 31st ultimo (and its accompanying maps) from the Adjutant-General, embodying the objections of the military authorities to the passage of the bill.

It appears from said report that to run a railroad across the Fort Marion grounds would seriously impair that square and interfere with the work of repairs to the fort, and that there is no necessity for the road taking the route proposed in the bill, as it can pass from Saint Sebastian to the North River anywhere north of the Government reservation, passing through property of but little importance, instead of along one of the principal thoroughfares of the town.

In view of the adverse reports of the military authorities on this subject, I cannot recommend that the proposed right of way be granted.

The bill is herewith returned.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. JOHN A. LOGAN,
Chairman Committee on Military Affairs, United States Senate.

HEADQUARTERS OF THE ARMY, ADJUTANT-GENERAL'S OFFICE,
Washington, March 31, 1886.

SIR: I have the honor to return herewith letter from Hon. John A. Logan, chairman of the Senate Committee on Military Affairs, covering Senate bill 1411, Forty-ninth Congress, first session, entitled "A bill granting to the Hanson and Atlantic Beach Railway Company the right of way through the military reservations at Saint Augustine, State of Florida," and also a communication from DeWitt Webb, M. D., of Saint Augustine, Fla., protesting against the passage of said S. 1411, with report.

A copy of these papers having been referred to the engineer officer in charge of t works at Saint Augustine, he remarks:

"The right of way granted by this bill is marked in red (on accompanying ma along the moat or lines, parallel to Orange street and 60 feet wide, passing over t old Coquina bridge outside the city gates. It here changes direction by a 10° curv and extends to the northeastern part of the reservation, with a width of 15 feet, cro ing the Glacis slope at northwest salient of Fort Marion. The proposed road exten from Hanson across the Saint Sebastian River to the bank of the Matanza River. here connects with the ferry-boat for the beach. Hanson, or Hanson's Plantation, about 4 miles west of Saint Augustine, and a place of no importance. I can see reason for the United States to grant permission to this road to cross the reservatio as it can reach the Matanza by crossing from the Saint Sebastian, north of this poi either along a street or by purchasing the right of way through private propert The purchase would be expensive, but the property of the United States is just valuable as any.

"The growth of Saint Augustine to the north has been large of late, and the Fo Marion reservation is finely located for a city park. By the fortification act, approve July 4, 1884, $5,000 was appropriated for the preservation of Fort Marion, at Sai Augustine, Florida, and for the inclosure and improvement of the grounds attached t the same. It would seem from this that it was the intention of Congress to reta this reservation for the use of the people, but the granting of this right of way wou interfere with this, and to all intents and purposes prevent it."

In these views the Acting Chief of Engineers concurs, and a copy of the pape having been referred to the commanding general, Division of the Atlantic, for repo are returned with the following remarks by the commanding officer at Saint Augu tine and the inspector-general of the department, which are concurred in by the d partment commander.

General Ayers, the commanding officer at Saint Francis Barracks, remarks:

"This proposition for a railroad along the lines takes in the old moat, which co stitutes the drain to the Fort Marion ground, Orange street, its residences, &c., whi is very necessary as such. It is a running stream, with several tributaries along course. Orange street, the lines, moat, &c., are parts of the military reservatio which may be required for military purposes. To run a railroad across the Fo Marion grounds would seriously impair that square, interfere with the work of a repairs to the fort, mounting guns, &c., and spoil the adornments of the grounds that attractive relic, which should be retained for its present uses and for any futu use for which it may be desired in connection with the fort. The railroad can rea ily reach the marshes on North River without coming upon the military reservatio

Col. Roger Jones, the inspector-general of the division, referring to the papers the case, states that "the right of way sought by the company is shown on the companying tracing, from which it will be seen that it wants a strip of land adjo ing and parallel to Orange street, throughout its entire length, to the city gates, a thence across the grounds of Fort Marion to the marshes on North River. The ro if built over the route indicated, would pass within a few yards of the northweste angle of the ditch of the moat, practically destroying the grounds as a pleasure sort, and between the fort and the shell road, which separates the grounds of the fo from those of the San Marco Hotel. As appropriations have been made to rest this old fort, among the most ancient works of the European settlements on this co tinent, it would seem that nothing should be permitted which would in any wise terfere with what was the evident purpose of Congress in providing for this reserv tion. If there were no other route available, and if it had become a matter of gre public convenience that the right of way should be granted for railroad purpos then, in that case, the sentiment of the community about this matter might have give way, but neither of these conditions exist. There is no necessity whatever the road taking this line. It can cross from Saint Sebastian to the North River an where north of the Government reservation, passing through property of but lit importance, instead of along one of the principal thoroughfares of the town, and many places over much better ground."

I have the honor to be, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General

The Hon. SECRETARY OF WAR.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 801.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1493.]

The Committee on Pensions, to whom was referred the bill (S. 1493) for the relief of Jesse H. Strickland, have examined the same, and report:

Your committee have carefully examined the facts set forth in the annexed petition and affidavits, showing that the claimant raised a regiment for service in the Army of the United States, but succumbed to disease before he was actually mustered in. His claim cannot, therefore, be technically considered under the general law, but is a just and equitable one for relief by Congress.

We therefore report back the bill with a recommendation that it do pass, with the following amendments: Strike out the word "colonel," in the title; also, the words "that he be allowed," in the eighth line, and insert in lieu thereof the words "pay him."

Brief of claim for invalid pension of Jesse H. Strickland.

This bill is to authorize the name of Col. Jesse H. Strickland to be placed on the pension-rolls of the Government.

The reason for asking a special act instead of proceeding by claim in the Pension Bureau is this:

During the civil war Mr. Strickland was a resident of the State of Tennessee, and was authorized by President Lincoln, through the War Office, to enlist a regiment of Tennessee troops for the United States service. Under this authority he did so proceed, and enlisted citizens and refugees of his State in numbers finally aggregating seven or eight hundred men. Many months of time and much money was spent in this work. It was performed under promise of being commissioned as colonel, and the regiment was first designated as the Fifth but afterwards as the Eighth Tennessee Cavalry. As men were mustered in, companies were formed and officers appointed, captains, majors, and finally a lieutenant-colonel. During all this time Mr. Strickland was regarded as a colonel, so designated in official orders, so obeyed when he was in command. As colonel he was in command of Convalescent Camp, at Camp Nelson, Ky., and as such his name was signed and respected in the Quartermaster's and Medical Departments. But, unfortunately for him, before the work was complete and he mustered into service, he was taken sick, and for months was under medical treatment, and from the diseases thus contracted in the line of his duty in the service of the United States he has never recovered.

While thus sick and under medical care, in the fall and winter of 1863, the presence of troops at the front was urgent, so that Andrew Johnson, then military governor of Tennessee, feeling that the public interests must override private rights, consolidated with the Eighth Tennessee Cavalry some 200 recruits obtained by S. V. K.

Patten, appointed Patten to be colonel, thus completing the regiment, sending it to the field, and depriving the claimant of his right to be mustered as colonel.

Under these circumstances the Pension Office cannot have jurisdiction of his pension claim, and he therefore asks pension by a special act of Congress. He herewith submits testimony to show his sickness in the service and continuously ever since. He is also asking of Congress a legal recognition of his right as colonel, and evidence of his service as such has been filed with the proper committee of the House of Representatives.

All of which is respectfully submitted.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

In the matter of pension by special act, Jesse H. Strickland, late colonel Eighth Tennessee Cavalry, United States Volunteers.

On the 30th day of January, 1863, authority was granted me by President Lincoln to recruit and organize a regiment of cavalry of loyal Tennesseeans for service in the Federal Army, and while recruiting and command of the said organization, and in the line of his duty at Camp Nelson, Ky., on or about the 1st of September, 1863, he contracted intermittent fever, and while convalescent went to Murfreesborough, Tenn., and thence to Nashville, Tenn., where he had a relapse of his disease, which terminated in typhoid fever and rheumatism, the former having resulted in lung complaint, hemorrhages, and general debility, and which, with rheumatism, have continually existed from time to time since leaving the service. The applicant has resided in Tennessee, and is now a resident of Brooklyn, Kings County, N. Y., where he has resided for the past twenty years. That prior to his entry into the United States service he was a man of good sound physical health, his weight at that time being 175 pounds, and his present weight being 141 pounds. That he is now disabled from obtaining his subsistence by manual labor, by reason of his injuries above described received in the service of the United States, and he therefore makes this declaration for the purpose of being placed on the pension rolls of the United States.

JESSE H. STRICKLAND,
Late Colonel Eighth Regiment Tennessee Cavalry, U. S. Vols.

LEXINGTON, *September* 17, 1863.

DOCTOR: This will be handed to you by Colonel Strickland, Eighth Tennessee Cavalry. You will please obtain for him one of the most comfortable rooms in the hotel, and consider him an *out patient*, and extend to him your best attention.

Respectfully yours,

ALEX. T. WATSON,
Surgeon U. S. V., Superintendent Hospitals, Central Kentucky.

A. A. Surgeon R. M. LACKY, U. S. A.,
In Charge of Post Hospital, Crab Orchard, Ky.

MEDICAL DIRECTOR'S OFFICE,
Louisville, Ky., September 4, 1863.

I certify that I have carefully examined J. H. Strickland, colonel of Eighth East Tennessee Cavalry, and find him suffering from intermittent fever, and he will not be able to rejoin his regiment for duty for some days.

WILLIAM W. GOLDSMITH,
A. A. Surgeon U. S. A., member of Board of Examiners.

[Indorsements.]

MED. DIRECTOR'S OFFICE, 9TH A. C.,
Lexington, Sept. 9, 1863.

Col. Strickland should rest and take medicine for five or six weeks.

J. E. MACDONAL,
Surg. U. S. V. & Act. Med. Director 9th A. C.

H'DQ'R 9TH A. C., MED. DIR. OFFICE,
Lexington, Ky., Sept. 17, '63.

Col. Strickland is not yet able, in my opinion, to join his command.

JOHN E. MACDONAL,
Surg. U. S. V. & Act. Med. Dir. 9th A. C.

HICKMAN BRIDGE HOSPITAL,
Camp Nelson, Ky., Sept. 19, 1863.

I have carefully examined Col. Strickland, of 8th E. Tenn. Cav., and find him unfit to perform field duties, because of debility following an attack of fever; and in my opinion it will be several weeks before he will be able for the duties of his corps.

A. C. SWARTZWELDER,
Surg. U. S. V., in charge.

DISTRICT OF COLUMBIA, *ss:*

In the matter of the pension claim of Jesse H. Strickland, late Colonel of the Eighth Tennessee Cavalry (Tennessee Volunteers).

Personally came before me, a clerk of the supreme court, in and for aforesaid District, R. J. Meigs, jr., aged 55 years, citizen of the city of Washington, D. C., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case, as follows: That I am well acquainted with the said Jesse H. Strickland, and was intimately acquainted with him for many years prior to the late civil war; that I knew of my own personal acquaintance that he was prior to his services in the United States Army a man of good sound health and constitution, and competent to render good military service in the Army of the United States.

I further declare that I have no interest in said case, and am not concerned in its prosecution.

[SEAL.] R. J. MEIGS, JR.

DISTRICT OF COLUMBIA,
County of Washington, ss:

In the matter of pension claim of Col. Jesse H. Strickland, Eighth Tennessee Cavalry, United States Volunteers.

Personally came before me Francis W. Strickland, a citizen of the town of Brooklyn, county of Kings, State of New York, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

I, Francis W. Strickland, late first lieutenant and commissary of subsistence Eighth Tennessee Cavalry, United States Volunteers, was with the said command at Camp Nelson, Kentucky, on or about May 12, 1863.

On or about November, 1863, on my return through Lexington, Ky., to Cincinnati, on furlough, I met the claimant, and he was suffering from the effects of an attack of typhoid fever and rheumatism and an injury sustained by his horse falling.

Previous to his entering the service he was a robust and healthy man, and ever since his discharge he has been in feeble health, and more or less disabled from the effects of the above diseases.

I have seen the claimant from time to time since his discharge from the military service, and the disability of rheumatism and the results of fever have continued from that time until the present, and he has been unable to perform manual labor.

FRANCIS W. STRICKLAND,
Late First Lieutenant and Commissary Subsistence,
Eighth Tennessee Cavalry, United States Volunteers.

DISTRICT OF COLUMBIA,
City of Washington, ss:

In the matter of claim of Jesse H. Strickland, late colonel of Eighth Regiment, Cavalry, Tennessee, United States Volunteers.

Personally came before me, a ——— ——— in and for aforesaid county and State Marcus A. O'Brien, citizen of the town of Washington, District of Columbia, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

That I have known claimant almost continuously for 21 years, from 1865 to the present time, 1885; I knew him to be by both report and official military documents that I have seen in his possession, colonel of the Eighth Regiment Tennessee Cavalry, United States Volunteers; I have seen him many times during the above period, in Nashville and Murfreesboro', Tenn., New York City and Brooklyn, N. Y., and I have never

known him to be a well or sound, healthy man; I know of his having typhoid fever, rheumatism, and lung trouble when I first became acquainted with him.

It has always been my conviction and belief that his broken down health was caused by exposure and hardships incurred during his military service to the United States.

And I further declare that I have no interest in said case, and am not concerned in its prosecution.

MARCUS A. O'BRIEN.

STATE OF NEW YORK,
County of Kings, ss:

In the pension claim No. ———, of Jesse H. Strickland, late colonel of Eighth Tennessee Cavalry Volunteers.

Personally came before me, James Watt, M. D., a citizen of Brooklyn, in the county of Kings, and State of New York, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about fourteen years, and that he has known him intimately, being his family physician for ten years.

(1) I did not know the applicant prior to 1872.

(2) Did not treat him at any time previous to the above date.

(3) First saw him during the year 1872, when I was called to treat him for chronic pneumonia and pulmonary hemorrhages; saw him several times during that year and the following five years for the same cause.

(4) The claimant has been unable for the past ten years to perform any manual labor.

He further declares that he has been a practitioner of medicine for twenty years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

JAMES WATT, *M. D.*

STATE OF NEW YORK,
County of New York, ss:

In the pension claim No. —, of Jesse H. Strickland, late colonel Eighth Tennessee Cavalry, United States Volunteers.

Personally came before me Walter R. Gillette, a citizen of New York, in the county of New York and State of New York, well known to me to be reputable and entitled to credit, and who being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about eighteen years, and that he has known him intimately, having been his family physician for five years. I first became acquainted with Colonel Strickland December 1, 1868, he at that time being an employé of the New York post-office, I being at that time physician and medical examiner of the same. I first called on him December 1, 1868, and found him in a precarious state of health suffering with lung trouble and rheumatism. Again, in March, 1869, I treated him for typhoid pneumonia. Again, in December, 1869, for rheumatism. In spring of 1870 hemorrhages and nervous prostration. Again, in spring of 1871, pleuro-pneumonia. I advised his resigning his position to prolong life, as I considered him totally unable to perform manual labor.

He further declares that he has been a practitioner of medicine for twenty-two years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

WALTER R. GILLETTE,
149 *West Twenty-third Street, New York.*

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 802.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1112.]

The Committee on Pensions, to whom was referred the bill (S. 1112) granting a pension to Phœbe H. Meech, have examined the same, and report:

The facts in this case are set forth in the favorable report of the Committee on Invalid Pensions of the House of Representatives, hereto appended (House Report No. 314, Forty-sixth Congress, second session). Her present bill is to give her the pension of the widow of a second lieutenant, and a favorable report was made to that effect by this committee in 1880 (Senate Report No. 601, Forty-sixth Congress, second session), and passed the Senate May 25, 1880. We adopt the conclusions stated in said report and recommend the passage of the bill.

We find upon examination of papers originally filed in the case in the Pension Office that Horace J. Meech, whose widow the petitioner is, was a soldier in the Mexican war, serving faithfully therein, and was promoted second lieutenant in Second Regiment New York Volunteers, his commission from the governor of New York bearing date 19th February, 1848; that he was honorably discharged the service June 28, 1848; that his application for pension was filed July 9, 1851, on account of wounds received in the service, and that pending the adjustment of his claim he died, December 30, 1855. The petitioner prosecuted the claim to a successful issue in 1875, and has been paid pension only from that time. Her application to be paid arrears of pension due from the date of the soldier's application to the date of the commencement of her pension, 9th April, 1875, was rejected, as was also her claim to be pensioned as the widow of a lieutenant, she being only admitted to the rate of pension allowed to the widow of a soldier.

It seems clear to your committee that this petitioner is equitably entitled to relief asked for, which has not been accorded her, as under the laws the Pension Office was precluded from doing. We believe this to be a case in which Congress may properly interfere, inasmuch as it is shown by the evidence that the soldier died from disease engendered by his army life in the war with Mexico.

We therefore report favorably upon her petition, and recommend the passage of the bill (H. R. 172) for the relief of Phœbe Meech.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 803.

IN THE SENATE OF THE UNITED STATES.

APRIL 27, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2159.]

The Committee on Pensions, to whom was referred the bill (S. 2159) granting a pension to Mrs. Almira Ambler, having had the same under consideration, beg leave to submit the following report:

Almira Ambler is the wife of Rev. Edward C. Ambler, who was chaplain of the Sixty-seventh Pennsylvania Volunteers. Both husband and wife are now old, in feeble health, and poor.

Mrs. Ambler, visiting her husband at the camp of the Sixty-seventh Pennsylvania Regiment, in the city of Philadelphia, in the year 1861, found thirteen very sick soldiers; her sympathies being enlisted, she, at the solicitation of the surgeon, undertook to care for them. Quarters were assigned to her, and during that whole fall and winter she spent her whole time in caring for the sick of the regiment, sometimes numbering as many as thirty. In the spring the regiment was ordered to Annapolis, whither she went with it, and there, for the space of nearly three years, spent her whole time in the hospital, nursing the sick and caring for them in every way.

She received no compensation. She expended in her work of love and mercy as much as $500 of her own money. She visited Washington six times and obtained comforts for the sick and wounded, and in every way in which her sympathetic nature could suggest became the benefactor of sick and wounded soldiers.

Her labors were performed under the direction of Dr. Vanderleift, in charge of the hospitals at Annapolis.

Probably no more touching instance of self-denial and sacrifice is to be found among the whole list of noble women, who did so much to alleviate the sufferings and preserve the lives of soldiers in hospitals. All this is shown by the unsolicited letters written her by officers and privates to whom she administered.

In view of the precedents which have been established, paying pensions to volunteer nurses, the committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 804.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2166.]

The Committee on Claims, to whom was referred the bill (S. 2166) for the relief of John F. Cadwallader, have considered the same, and respectfully report:

The following letters from the Attorney-General and the Secretary of the Treasury show the nature and justice of the claim.

We recommend the passage of the bill.

DEPARTMENT OF JUSTICE,
Washington, April 27, 1886.

SIR: In answer to your letter of the 23d instant, inclosing Senate bill 2166, for the relief of John F. Cadwallader, in the sum of $462.75, in compensation for services rendered in writing up the back records of the district court of the United States for the southern district of Illinois, you are informed that the correspondence of this Department has been directed to this end; that the compensation for Mr. Cadwallader should be paid by a direct appropriation by Congress.

There is abundant evidence in the Department that the services were rendered and under the direction of the court were absolutely necessary. The reports of examiners of this Department coincide with this view.

I therefore would respectfully request that the sum mentioned should be appropriated for his relief.

Very respectfully,

A. H. GARLAND,
Attorney-General.

Hon. GEORGE F. HOAR,
United States Senate.

TREASURY DEPARTMENT, *February* 5, 1886.

SIR: I have the honor to forward herewith, for the consideration of Congress, copy of a communication from the Attorney-General, and its inclosures, in relation to an account of John F. Cadwallader, amounting to $462.75, for writing up the back records in the United States district court for the southern district of Illinois.

Respectfully, yours,

D. MANNING,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF JUSTICE,
Washington, January 30, 1886.

SIR: Inclosed is a copy of a letter from the First Auditor of the Treasury of the 27th instant, respecting an account, also inclosed, of John F. Cadwallader, for writing up the records in the United States district court in the southern district of Illinois after October 1, 1883.

The labor performed by Mr. Cadwallader ought to have been performed by the predecessor of the present incumbent.

As there is no available appropriation under the control of the Attorney-General for the payment of this account, it is transmitted to you to be forwarded to Congress under act approved July 7, 1884 (Stats. at Large, vol. 23, page 254, first paragraph).

Very respectfully,

A. H. GARLAND,
Attorney-General.

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
January 27, 1886.

SIR: The account of John F. Cadwallader, for "writing back records of the district court of the United States for the southern district of Illinois," is herewith submitted for approval.

If the services had been performed by the clerk of the court and the fees charged in his account, they would have been allowed. Mr. Cadwallader is not the clerk, and I know of no authority to warrant the allowance to him. If he was authorized by your Department, or its agent, the account should be approved by you, and the appropriation from which it is to be paid should be designated.

Very respectfully,

JAS. Q. CHENOWETH,
Auditor.

Hon. A. H. GARLAND,
Attorney-General.

[Office of clerk district court United States, southern district of Illinois.]

SPRINGFIELD, *December* 21, 1885.

SIR: In response to your letter of the 4th instant (H. H. J. W. G.), I have the honor to forward herewith the account of John F. Cadwallader, of compensation due him for services in writing back record of this court, amounting to $462.75, together with a certified copy of the orders of court approving same, affidavits of the district attorney and myself, and a statement from the Hon. Samuel H. Treat, judge of said court, in reference thereto.

Hoping that this may receive early attention, and that the most feasible plan to secure payment may be adopted,

I am, very respectfully, yours, &c.,

M. B. CONVERSE,
Clerk.

The ATTORNEY-GENERAL,
Washington, D. C.

The United States of America in account with John F. Cadwallader, Dr.

To services rendered from October 1 to December 20, 1883, inclusive, in writing back record of the district court of the United States for the southern district of Illinois, as follows, to wit:

1. Case No. 1397. The United States *vs.* Albert Lange; violation of revenue law; plea guilty, February 1, 1870; writing judgment record, 14 folios, at 15 cents	$2 10
2. Case No. 967. The United States *vs.* Elizabeth Cole; suit to recover pension fraudulently obtained by defendant; judgment for defendant, February 8, 1870; writing judgment record, 14 folios, at 15 cents	2 10
3. Case No. 1330. The United States *vs.* 5 Gallons Whisky; libel in forfeiture under revenue law; decree of forfeiture, February 25, 1870; writing judgment record, 28 folios, at 15 cents	4 20

4. Case No. 1420. The United States *vs.* Peter Good; violation revenue law; plea guilty, February 19, 1870; writing judgment record, 23 folios, at 15 cents $3 45
5. Case No. 1016. The United States *vs.* Distillery, &c., of John Lowry; libel in forfeiture under revenue law; tried by court; libel not sustained, March 5, 1870; writing judgment record, 66 folios, at 15 cents. 9 90
6. Case No. 1323. The United States *vs.* 40 Gallons Whisky; libel in forfeiture under revenue law; decree of forfeiture, April 4, 1870; writing judgment record, 30 folios. at 15 cents 4 50
7. Case No. 1324. The United States *vs.* 12 Boxes Tobacco, 60 pounds each; libel in forfeiture under revenue law; decree of condemnation, April 4, 1870; writing judgment record, 30 folios, at 15 cents 5 25
8. Case No. 1327. The United States *vs.* Property of George and William Isaacs; libel in forfeiture under revenue law; decree of forfeiture, April 4, 1870; writing judgment record, 37 folios, at 15 cents 5 55
9. Case No. 1328. The United States *vs.* Tobacco, property of Kahn & Waggener; libel in forfeiture under revenue law; decree of forfeiture, April 4, 1870; writing judgment record, 34 folios, at 15 cents 5 10
10. Case No. 977. The United States *vs.* Parley L. Howlett *et al.*; suit on distiller's transportation bond; judgment for United States, February 17, 1868; writing judgment record, 112 folios, at 15 cents 16 80
11. Case No. 1322. The United States *vs.* 2 Kegs of Whisky (10 gallons each); libel in forfeiture under revenue law; decree of forfeiture, June 6, 1870; writing judgment record, 31 folios, at 15 cents 4 65
12. Case No. 1451. The United States *vs.* 1 Cask (6 gallons) Whisky; libel in forfeiture under revenue law; decree of forfeiture, June 6, 1870; writing judgment record, 26 folios, at 15 cents 3 90
13. Case No. 1452. The United States *vs.* 4 Casks Whisky (about 40 gallons each); libel in forfeiture under revenue law; decree of forfeiture, June 6, 1870; writing judgment record, 32 folios, at 15 cents 4 80
14. Case No. 1200. The United States *vs.* 1 Cask Brandy; libel in forfeiture under revenue law; decree of forfeiture, June 7, 1870; writing judgment record, 37 folios, at 15 cents 5 55
15. Case No. 1192. The United States *vs.* William Hankins; violation naturalization laws; jury trial; verdict not guilty, June 11, 1870; writing judgment record, 62 folios, at 15 cents 9 30
16. Case No. 1410. The United States *vs.* Adolph Bochan and Sampson Kingsbaker; violation of revenue law; jury trial; verdict not guilty, June 13, 1870; writing judgment record, 31 folios, at 15 cents 4 65
17. Case No. 1461. The United States *vs.* James Whalen; violation revenue law; plea guilty, June 13, 1870; writing judgment record, 16 folios, at 15 cents 2 40
18. Case No. 1462. The United States *vs.* Samuel Foster; violation revenue law; plea guilty, June 13, 1870; writing judgment record, 19 folios, at 15 cents 2 85
19. Case No. 1463. The United States *vs.* Jacob King; violation revenue law; plea guilty, June 13, 1870; writing judgment record, 16 folios, at 15 cents 2 40
20. Case No. 1415. The United States *vs.* Edward C. Gray; forgery of paymaster's check; jury trial, verdict not guilty, June 17, 1870; writing judgment record, 25 folios, at 15 cents 3 75
21. Case No. 1414. The United States *vs.* Edward Prince; forgery of indorsement on paymaster's check; jury trial; verdict not guilty, June 18, 1870; writing judgment record, 19 folios, at 15 cents 2 85
22. Case No. 1263. The United States *vs.* Thomas D. McKee; suit to recover bounty improperly received by defendant; judgment for United States, June 20, 1870; writing judgment record, 11 folios, at 15 cents 1 65
23. Case No. 1202. The United States *vs.* Andrew Woolcott *et al.*; suit on cigar manufacturer's bond; judgment for United States, June 23, 1870; writing judgment record 35 folios, at 15 cents 5 25
24. Case No. 1345. The United States *vs.* George Hoffner *et al.*; suit on bond of cigar manufacturer; judgment for United States, June 23, 1870; writing judgment record, 35 folios, at 15 cents 5 25
25. Case No. 1465. The United States *vs.* Austin W. Owens; violation revenue law; tried by court; finding for defendant, June 23, 1870; writing judgment record, 8 folios, at 15 cents 1 20
26. Case. No. 1265. The United States *vs.* Francis A. Allison; suit to recover penalty for fraudulently obtaining money on pay and bounty certificate; judgment for United States, June 28, 1870; writing judgment record, 24 folios, at 15 cents 3 60

27. Case No. 1482. The United States *vs.* Frederick G. Wilson; violation of revenue law; plea guilty, June 28, 1870; writing judgment record, 12 folios, at 15 cents $1 80
28. Case No. 1191. The United States *vs.* James C. Brady; violation of naturalization laws; jury trial; verdict not guilty, June 29, 1870; writing judgment record, 90 folios, at 15 cents 13 50
29. Case No. 1457. The United States *vs.* Distillery, &c., of Charles McCoy; libel in forfeiture under revenue law; decree of forfeiture, July 4, 1870; writing judgment record, 47 folios, at 15 cents 7 05
30. Case No. 1458. The United States *vs.* Brewery Property of Philip Schermer; libel for forfeiture under revenue law; decree of forfeiture, July 4, 1870; writing judgment record, 52 folios, at 15 cents 7 80
31. Case No. 1469. The United States *vs.* Addison Hickox; suit to recover penalty for violation revenue law; judgment for defendant, July 6, 1870; writing judgment record, 12 folios, at 15 cents 1 80
32. Case No. 1470. The United States *vs.* Addison Hickox; suit to recover penalty for violation revenue laws; judgment for defendant, July 9, 1870; writing judgment record, 12 folios, at 15 cents 1 80
33. Case No. 1471. The United States *vs.* Addison Hickox; suit to recover penalty for violation revenue law; judgment for defendant, July 9, 1870; writing judgment record, 12 folios, at 15 cents 1 80
34. Case No. 1472. The United States *vs.* Addison Hickox; suit to recover penalty for violation revenue law; judgment for defendant, July 9, 1870; writing judgment record, 12 folios, at 15 cents 1 80
35. Case No. 1473. The United States *vs.* Addison Hickox; suit to recover penalty for violation revenue law; judgment for United States, July 9, 1870; writing judgment record, 14 folios, at 15 cents 2 10
36. Case No. 1005. The United States *vs.* Dominick Mulholland; violation revenue law; judgment for United States, July 3, 1868; writing judgment record, 37 folios, at 15 cents 5 55
37. Case No. 1301. The United States *vs.* John Perkins and Eleazer B. Miller; forfeiture of recognizance; judgment for the United States, January 10, 1871; writing judgment record, 26 folios, at 15 cents 3 90
38. Case No. 1493. The United States *vs.* W. W. Carter; passing counterfeit money; jury trial; verdict not guilty, January 10, 1871; writing judgment record, 14 folios, at 15 cents 2 10
39. Case No. 1353. The United States *vs.* Henry Mitchell; violation revenue law; jury trial; verdict not guilty, January 11, 1871; writing judgment record, 23 folios, at 15 cents 3 45
40. Case No. 1460. The United States *vs.* Robert F. Murray *et al.*; suit on distiller's bond; judgment for United States, January 19, 1871; writing judgment record, 95 folios, at 15 cents 14 25
41. Case No. 1556. The United States *vs.* Thomas Miller *et al.*; violation revenue law; judgment for United States, January 19, 1871; writing judgment record, 47 folios, at 15 cents 7 05
42. Case No. 1522. The United States *vs.* Distillery of C. W. Morris; libel in forfeiture under revenue law; decree of forfeiture, January 19, 1871; writing judgment record, 75 folios, at 15 cents 11 25
43. Case No. 1529. The United States *vs.* Distillery, &c., of Michael Siglear; libel in forfeiture under revenue law; decree of forfeiture January 21, 1871; writing judgment record, 60 folios, at 15 cents 9 00
44. Case No. 1568. The United States *vs.* John H. Stephens; having in possession counterfeit money; jury trial; verdict not guilty, January 28, 1871; writing judgment record, 16 folios, at 15 cents 2 40
45. Case No. 1480. The United States *vs.* James McKee; passing counterfeit money; jury trial; verdict not guilty, January 31, 1871; writing judgment record, 26 folios, at 15 cents 3 90
46. Case No. 1565. The United States *vs.* Thomas McKinney *et al.*; making counterfeit coin; tried by jury; verdict, guilty, February 8, 1871; writing judgment record, 21 folios, at 15 cents 3 15
47. Case No. 1558. The United States *vs.* Charles R. Richardson; suit to recover penalty for violation of revenue law; judgment for United States, February 15, 1871; writing judgment record, 13 folios, at 15 cents 1 95
48. Case No. 1496. The United States *vs.* Henry J. Noyes *et al.*; suit to recover amount of promissory note made by defendants upon compromise for violation revenue law; judgment for United States, February 20, 1871; writing judgment record, 33 folios, at 15 cents 4 95
49. Case No. 1302. The United States *vs.* William Barnett *et al.*; forfeiture of recognizance; judgment for United States, February 22, 1871; writing judgment record, 29 folios, at 15 cents 4 35

50. Case No. 1305. The United States *vs.* Alonzo F. Stewart; forfeiture of recognizance; judgment for United States, February 22, 1871; writing judgment record, 27 folios, at 15 cents $4 05
51. Case No. 5160. The United States *vs.* Benedict Stocker *et al.;* suit on cigar-manufacturer's bond; judgment for United States, February 13, 1871; writing judgment record, 26 folios, at 15 cents 3 90
52. Case No. 1561. The United States *vs.* Augustus Golsch *et al.;* suit on cigar-manufacturer's bond; judgment for United States, March 1, 1871; writing judgment record, 33 folios, at 15 cents 4 95
53. Case No. 1564. The United States *vs.* Martin Seisner *et al.;* suit on cigar-manufacturer's bond; judgment for United States, March 1, 1871; writing judgment record, 28 folios, at 15 cents 4 20
54. Case No. 1552. The United States *vs.* Antoine Pauley; violation revenue law; plea guilty, March 3, 1871; writing judgment record, 13 folios, at 15 cents 1 95
55. Case No. 1571. The United States *vs.* Charles Sartwell; passing counterfeit coin; jury trial; verdict guilty; sentence March 3, 1871; writing judgment record, 12 folios, at 15 cents 1 80
56. Case No. 1567. The United States *vs.* Distillery, &c., of William Wood; libel in forfeiture under revenue law; decree of forfeiture March 6, 1871; writing judgment record, 55 folios, at 15 cents 8 25
57. Case No. 1633. The United States *vs.* Martin Freiner; violation revenue law; plea guilty, April 21, 1871; writing judgment record, 10 folios, at 15 cents 1 50
58. Case No. 1634. The United States *vs.* David Davis; violation revenue law; plea guilty, April 21, 1861; writing judgment record, 9 folios, at 15 cents 1 35
59. Case No. 1635. The United States *vs.* Francis M. Miles; violation revenue law; plea guilty, April 21, 1871; writing judgment record, 9 folios, at 15 cents 1 35
60. Case No. 1636. The United States *vs.* Henry A. Bergman; violation revenue law; plea guilty, April 21, 1871; writing judgment record, 11 folios, at 15 cents 1 65
61. Case No. 1637. The United States *vs.* Henry Speckman & Henry Schlange; violation revenue law; plea guilty, April 22, 1871; writing judgment record, 10 folios, at 15 cents 1 50
62. Case No. 1639. The United States *vs.* 1,200 cigars; information in forfeiture under revenue law; decree of forfeiture June 6, 1871; writing judgment record, 30 folios, at 15 cents 4 50
63. Case No. 1487. The United States *vs.* John H. McQuown *et al.;* forfeiture of recognizance; judgment for United States June 7, 1871; writing judgment record, 29 folios, at 15 cents 4 35
64. Case No. 1499. The United States *vs.* Andrew J. Barlow *et al.;* forfeiture of recognizance; judgment for United States June 7, 1871; writing judgment record, 21 folios, at 15 cents 3 15
65. Case No. 1500. The United States *vs.* Volier Benton Vance *et al.;* forfeiture of recognizance; judgment for United States June 7, 1871; writing judgment record, 35 folios, at 15 cents 5 25
66. Case No. 1501. The United States *vs.* George Jones; forfeiture of recognizance; judgment for United States June 7, 1871; writing judgment record, 25 folios, at 15 cents 3 65
67. Case No. 1502. The United States *vs.* Joseph P. McCandless; forfeiture of recognizance; judgment for United States June 7, 1871; writing judgment record, 45 folios, at 15 cents 6 75
68. Case No. 1503. The United States *vs.* George House; forfeiture and recognizance; judgment for United States June 7, 1871; writing judgment record, 27 folios, at 15 cents 4 05
69. Case No. 1650. The United States *vs.* Catherine Doran; violation revenue law; plea guilty, June 13, 1871; writing judgment record, 9 folios, at 15 cents 1 35
70. Case No. 1497. The United States *vs.* Augustine Boggiano *et al.;* forfeiture of recognizance; judgment for United States June 15, 1871; writing judgment record, 27 folios, at 15 cents 4 05
71. Case No. 1497. The United States *vs.* Lawrence Fay *et al.;* forfeiture of recognizance; judgment for United States June 15, 1871; writing judgment record, 27 folios, at 15 cents 4 05
72. Case No. 1491. The United States *vs.* John Reynolds; passing counterfeit money; tried by jury, verdict not guilty, June 16, 1871; writing judgment record, 16 folios, at 15 cents 2 40

73. Case No. 1395. The United States *vs.* John Schneider; violation revenue law; plea guilty, June 19, 1871; writing judgment record, 24 folios, at 15 cents $3 60
74. Case No. 1668. The United States *vs.* Samuel Grindel: forgery United States postal money-order; jury trial; verdict not guilty, June 23, 1871; writing judgment record, 11 folios, at 15 cents 1 65
75. Case No. 1679. The United States *vs.* George C. Green *et al.;* violation revenue law; plea guilty, June 30, 1871; writing judgment record, 12 folios, at 15 cents 1 80
76. Case No. 1676. The United States *vs.* John A. Mefford *et al.;* embezzling mail; tried by jury; verdict not guilty, July 7, 1871; writing judgment record, 14 folios at 15 cents 2 10
77. Case No. 1691. The United States *vs.* John O. Pullan; violation revenue law; plea guilty, July 7, 1871; writing judgment record, 13 folios, at 15 cents 1 95
78. Case No. 1670. The United States *vs.* Asgil Connor: suit to recover pay twice drawn as captain Company K, Eighteenth Illinois Infantry; judgment for United States July 10, 1871; writing judgment record, 20 folios, at 15 cents 3 00
79. Case No. 1682. The United States *vs.* James Cartright; stealing from post-office; jury trial; verdict not guilty, July 11, 1871; writing judgment record, 9 folios, at 15 cents 1 35
80. Case No. 1304. The United States *vs.* Augustine Boggians *et al.;* forfeiture of recognizance; judgment United States July 13, 1871; writing judgment record, 61 folios, at 15 cents 9 15
81. Case No. 1434. The United States *vs.* John Kellum; passing counterfeit money; jury trial; verdict guilty; sentence, July 13, 1871; writing judgment record, 32 folios, at 15 cents 4 80
82. Case No. 1649. The United States *vs.* Charles Scott; stealing post-office property; jury trial; verdict guilty; sentence July 13, 1871; writing judgment record, 15 folios, at 15 cents 2 25
83. Case No. 1674. The United States *vs.* Charles Freely; attempting to pass counterfeit money; jury trial; verdict guilty; sentence July 13, 1871; writing judgment record, 13 folios, at 15 cents 1 95
84. Case No. 1669. The United States *vs.* David W. Gardner; violation revenue law; plea guilty, January 3, 1872; writing judgment record, 10 folios, at 15 cents 1 50
85. Case No. 1676. The United States *vs.* John Upton, sr.; violation revenue law; plea guilty, January 3, 1872; writing judgment record, 8 folios, at 15 cents 1 20
86. Case No. 1666. The United States *vs.* Silas Cheek; suit on bond of collector of internal revenue; judgment for United States January 4, 1872; writing judgment record, 32 folios, at 15 cents 4 80
87. Case No. 1750. The United States *vs.* Daniel Morrisey; violation revenue law; plea guilty, January 6, 1872; writing judgment record, 11 folios, at 15 cents 1 65
88. Case No. 1756. The United States *vs.* Arnold Schroeder; violation revenue law; plea guilty, January 11, 1872; writing judgment record, 9 folios, at 15 cents 1 35
89. Case No. 1757. The United States *vs.* Steven D. Cox; violation revenue law; plea guilty, January 11, 1872; writing judgment record, 9 folios, at 15 cents 1 35
90. Case No. 1687. The United States *vs.* Francis Bostock; violation revenue law; plea guilty, January 16, 1872; writing judgment record, 15 folios, at 15 cents 2 25
91. Case No. 1761. The United States *vs.* Maurice Mitchell; violation revenue law; plea guilty, January 17, 1872; writing judgment record, 10 folios, at 15 cents 1 50
92. Case No. 1764. The United States *vs.* Daniel McHugh; violation revenue law; plea guilty, January 19, 1872; writing judgment record, 10 folios, at 15 cents 1 50
93. Case No. 1641. The United States *vs.* Willard C. Flagg *et al.;* suit on bond of collector of internal revenue; judgment for United States for $15,096.34, February 17, 1872; writing judgment record, 278 folios, at 15 cents 41 70
94. Case No. 1784. The United States *vs.* Timothy M. Lane; violation revenue law; jury trial; verdict not guilty, February 16, 1872; writing judgment record, 8 folios, at 15 cents 1 20
95. Case No. 1548. The United States *vs.* Monroe W. Gay; stealing from mail; jury trial; verdict not guilty, February 3, 1872; writing judgment record, 34 folios, at 15 cents 5 10

96. Case No. 1733. The United States *vs.* five caddies tobacco; libel in forfeiture under revenue law; decree of forfeiture February 5, 1872; writing judgment record, 30 folios, at 15 cents $4 50
97. Case No. 1802. The United States *vs.* Nicholas Balder; violation of revenue law; plea guilty, February 14, 1872; writing judgment record, 15 folios, at 15 cents 2 25
98. Case No. 1696. The United States *vs.* Abdiel T. Risley; suit to recover penalty for violation revenue law; judgment for defendant January 30, 1872; writing judgment record, 18 folios, at 15 cents 2 70
99. Case No. 1695. The United States *vs.* Abdiel T. Risley; suit to recover penalty for violation of revenue law; judgment for defendant January 30, 1872; writing judgment record, 18 folios, at 15 cents 2 70
100. Case No. 1479. The United States *vs.* John D. Keedy *et al.*; suit on gauger's bond; judgment for United States January 19, 1872; writing judgment record, 30 folios, at 15 cents 4 50
101. Case No. 1759. The United States *vs.* Frank Wolf; violation revenue law; plea guilty, January 19, 1872; writing judgment record, 9 folios, at 15 cents 1 35
102. Case No. 1743. The United States *vs.* James C. Beeler; suit to recover amount overpaid to lieutenant Thirty-first Indiana Infantry and R. Q. M.; judgment for United States January 23, 1872; writing judgment record, 16 folios, at 15 cents 2 40

Vouchers Nos. 1 to 102, inclusive, total 438 90

The United States of America in account with John F. Cadwallader, Dr.

To services rendered in the month of November, A. D. 1883, in writing back record of the district court of the United States for the southern district of Illinois, in cases pertaining to the Post-Office Department, as follows, to wit:

103. Case No. 1495. The United States *vs.* John D. Straub *et al.*; suit on bond of John D. Straub, late postmaster at Fowler's Station, Ill.; judgment for United States June 13, 1871; writing judgment record, 34 folios, at 15 cents $5 10
104. Case No. 1262. The United States *vs.* Charles W. Houghton *et al.*; suit on bond of Charles W. Houghton, late postmaster at Mattoon, Ill.; judgment for United States June 21, 1871; writing judgment record, 85 folios, at 15 cents 12 75
105. Case No. 1476. The United States *vs.* James J. Allen, jr., *et al.*; suit on bond of James J. Allen, jr., late postmaster at Bloomington, Ill.; judgment for United States January 2, 1872; writing judgment record, 40 folios, at 15 cents 6 00

Vouchers Nos. 103 to 105, inclusive, total 23 85

RECAPITULATION.

Vouchers Nos. 1 to 102, inclusive	$438 90
Vouchers Nos. 103 to 105, inclusive	23 85
	462 75

UNITED STATES OF AMERICA,
Southern District of Illinois, ss:

John F. Cadwallader, being duly sworn, upon oath says that the foregoing accounts against the United States for writing back record of the district court of the United States for the southern district of Illinois, amounting to the sum of $462.75, are true and correct; that the services therein charged were actually performed, as therein stated; and that the same were performed under the direction and supervision of the clerk of said court; and that the amount of said accounts is justly due to him, as he verily believes, and that he has received no compensation for the services charged for in said accounts.

JOHN F. CADWALLADER.

Subscribed and sworn to before me this 18th day of December, A. D. 1885.

[SEAL.] J. A. JONES,
Clerk of the Circuit Court of the United States for the Southern District of Illinois.

UNITED STATES OF AMERICA,
Southern District of Illinois, ss:

M. B. Converse, being duly sworn, on oath says that he is the clerk of the district court of the United States for said district; that he was appointed such clerk on the 13th day of March, A. D. 1880; that subsequent to his said appointment, and during the year 1880, a Mr. Newcomb, who represents himself as being connected with the Department of Justice, in a conversation had with Hon. James H. Treat, judge of said court, and this deponent, stated that the condition of the records of said court was known to the then Attorney-General and to the First Comptroller of the Treasury, and that it was the opinion of those two officers that deponent, as clerk of said court, might properly proceed to write the back record of said court, charge the lawful fees therefor, which would be allowed and paid the same as fees for current work; that relying upon the statements made by said Newcomb, deponent proceeded to write the judgment record in some of the cases where the United States were the plaintiffs, made a voucher or fee bill in each case where a charge for such service was made, which said fee bill showed upon its face when the case was disposed of, and also in what term and year the record was written; that all charges heretofore made by deponent for such service have been allowed by the accounting officers of the Treasury and have been paid, as he was given to understand, by the said Newcomb, they would be. Deponent further says that he has examined the accounts of John F. Cadwallader for services in writing back record of said court during the period commencing October 1, 1883, and ending December 20, 1883, amounting to $462.75; that the services charged for have been actually and necessarily performed as therein stated, and were performed under the direction of this deponent as clerk of said court; that owing to the lapse of time since the disposition of the cases in which the charges in said accounts were made, the labor involved in preparing court minutes, papers, and files, preparatory writing said record was very great, and that the services rendered are well worth the statutory fees allowed the clerk for like service, which is the amount charged in said accounts.

[SEAL.] M. B. CONVERSE.

Subscribed and sworn to before me this 18th day of December, A. D. 1885.

J. A. JONES,
Clerk of the Circuit Court of the United States for the Southern District of Illinois.

In the district court of the United States for the southern district of Illinois, Wednesday, January 16, A. D. 1884, before the Hon. Samuel H. Treat, judge.

Whereas John F. Cadwallader has rendered to this court an account against the United States for services performed by him from October 1 to December 20, A. D. 1883, inclusive, in writing back record of this court, with the items thereof, and in presence of Edward T. Roe, esq., assistant United States attorney, has proved, on oath, to the satisfaction of the court, that the services therein charged have been actually performed as therein stated, and whereas said charges appear to be just and according to law, it is hereby ordered that said account amounting to $438.90 be, and the same is hereby, approved.

Whereas John F. Cadwallader has rendered to this court an account against the United States for services performed by him in the month of November, A. D. 1883, in writing back record of this court in cases pertaining to the Post-Office Department, with the items thereof, and in presence of Edward T. Roe, esq., assistant United States attorney, has proved, on oath, to the satisfaction of the court, that the services therein charged have been actually performed as therein stated, and whereas said charges appear to be just and according to law, it is hereby ordered that said account amounting to $23.85 be, and the same is hereby, approved.

THE UNITED STATES OF AMERICA,
Southern District of Illinois, ss:

I, M. B. Converse, clerk of the district court of the United States for the southern district of Illinois, do hereby certify the foregoing to be true copies of certain orders made by said court on Wednesday, the 16th day of January, A. D. 1884, approving accounts of John F. Cadwallader for writing back record of said court from October 1 to December 20, A. D. 1883, aggregating the sum of four hundred and sixty-two dollars and seventy-five cents ($462.75), as the same now appears from the records of said court in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in the city of Springfield, in said district, this 18th day of December, in the year of our Lord 1885, and of the independence of the United States the one hundred and tenth year.

[SEAL.] M. B. CONVERSE,
Clerk.

UNITED STATES OF AMERICA,
Southern District of Illinois, ss:

G. Van Hoorebeke, being first duly sworn, on oath says he is the district attorney of the United States for the southern district of Illinois, by a commission from the President of the United States, bearing date June 8, A. D. 1885; that he has examined the accounts of John F. Cadwallader for services in writing up the back records of the district court of the United States for said district, in cases in which the United States was a party, covering a period from October 1 to December 20, A. D. 1883, and finds the charges therein made for the services performed to be the statutory charges allowed clerks of courts for like services; that he has examined the record charged for in said account, together with some of the court minutes, papers, and files from which the same was made; that the work charged for appears to have been faithfully performed as therein stated, and that in his opinion said John Cadwallader is entitled to compensation for said services, at the legal rate charged in said account. Deponent further says that he has no interest whatever in the premises further than that the said John Cadwallader may receive what is due him for services performed.

G. VAN HOOREBEKE.

Sworn and subscribed to before me this 21st day of December, A. D. 1885.

[SEAL.] M. B. CONVERSE,
Clerk United States District Court.

I have examined the foregoing account of Mr. Cadwallader, and know, from personal knowledge, that the services therein stated were rendered by him; and that, in my opinion, in connection with the statements of the clerk and district attorney, the charges made are just and reasonable, and ought to be allowed.

S. H. TREAT,
District Judge.

DECEMBER 21, 1885.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 805.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1641.]

The Committee on Claims, to whom was referred the bill (S. 1641) for the relief of Frederick Foote, of Fairfax County, Virginia, have considered the same, and respectfully report:

In August, 1871, the claimant filed before the Southern Claims Commission a claim for $2,420 for supplies furnished to the Union Army during the rebellion. Some time later, the date not appearing, he filed before the same commission a claim for $770 for certain additional supplies, which he alleged had been omitted from the original claim by mistake, the paper containing these items having been mislaid when his son, who attended to his business, made out the list of supplies to present to the commission. The commission allowed on the first claim $552.25, which was paid. The claimant, in his petition to Congress, alleges that "the commission passed upon the first count only, leaving the items upon the second count, although as fully proven as those upon the first, without any action whatever either for or against; that the claim had been reported to the War Committee in Congress for payment before the petitioner had seen the report or found out that an error had been committed, and then was told that it was too late for the commission to correct it." The claimant asks to be paid for the supplies covered in his second claim.

The action of the commission in regard to the second claim does not appear to have been as alleged by the claimant. The commission say, in their report on the case, after passing upon the items of the original claim, "the time for filing claims having expired, the amendment proposed cannot be allowed." By the "amendment" we suppose is meant the second claim. The "error," then, was not the error of the commission, but of the claimant. We do not think that the petitioner, having lost his standing before the commission, under these circumstances, is entitled to relief by special act of Congress.

The petitioner further asks to be paid for one item included in his first claim which was disallowed by the commission. The report of the commission says: "After reading carefully the testimony, and considering the time, place, and circumstances, we cannot allow for the hogs. They must be charged to depredation." The petitioner thinks that Congress would be doing no injustice to the Government by allowing a reasonable compensation therefor. But we think the judgment of the commission should be treated as final.

We recommend that the bill be indefinitely postponed.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 806.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2397.]

The Committee on Claims, to whom was referred the bill (H. R. 2397) for the relief of Thomas Purnell, having considered the same, submit the following report:

This claim was presented to the Forty-eighth Congress, and was examined and reported upon by the Judiciary Committee of the House of Representatives. The following is the report of that committee, made by its chairman, Mr. Tucker, recommending its payment (House Report No. 2263, Forty-eighth Congress, second session):

The facts are these: Peter McCartney, under indictment for passing counterfeit United States Treasury notes at Austin, Tex., in the United States court, escaped from I. L. Duckworth, secret service officer, and M. O. Callahan, deputy marshal, in April, 1875.

Secret Service Officer Whitney, by telegram, on the 7th of April, 1875, directed Duckworth to get all the men necessary to recapture the criminal, and offer $500 reward. The same was telegraphed to Callahan. Duckworth, an officer of the secret service, telegraphed by order of Solicitor of Treasury to Callahan to offer same reward, and to encourage men, and get them out to assist in the recapture. Anderson, deputy United States marshal, on the 8th of April, 1875, said by telegram to Callahan, "Increase reward to $1,000, and do your best." This was confirmed by Whitney and Duckworth. He was recaptured on the 12th of April, 1875, on which day Purnell, the marshal, telegraphed the news to the Attorney-General of the United States. On the same day the Solicitor of the Treasury telegraphed to Purnell, "I congratulate you heartily on the recapture of McCartney."

On the 15th of April, 1875, Purnell paid to the captor $1,000, and has the receipt therefor, which, in duplicate, is on file in the Treasury Department, and the original is filed with the papers referred to this committee.

In 1879 Purnell presented his account with the Department and claimed credit for the amount paid as reward. It was refused on the ground that there was no authority for offering the reward.

It is clear that the criminal was a desperate man and that his recapture was very important to public justice, and the reward secured the result, and was offered under color of authority in good faith by Purnell, and was paid by him in the interest of the Government.

Your committee think that the amount so paid by Purnell should be refunded, and therefore report back the bill with a favorable recommendation.

Your committee agree with the recommendation of the Judiciary Committee of the House.

It does not appear, and is nowhere claimed, that the claimant or his deputies were guilty of any negligence or want in due care, or that the escape of McCartney arose from any fault of theirs.

The reward was offered by United States officers engaged in the secret service of the Government, claiming authority, and in a case requiring prompt and efficient action. The claimant acted in entire good faith. The conduct of all engaged in the arrest was commendable.

The committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 807.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

MR. JONES, of Arkansas, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 286.]

The Committee on Claims, to whom was referred the bill S. (286) referring to the Court of Claims the claims of Joseph C. Irwin & Co. and C. A. Perry & Co., have had the same under consideration, and report as follows:

This matter was presented to the Thirty-sixth Congress, and was favorably reported to the House and passed that body, but was not considered in the Senate. From that time it seems to have been presented for attention either in the Departments or in Congress.

Favorable reports have been made in both Houses, and favorable action has been had in the Departments, but a final settlement has never been reached. This bill has been favorably reported to the House at this session, and is now on the calendar of that body. The facts seem to be as follows:

The claimants, C. A. Perry & Co., state that in 1857 they were merchants doing business in Salt Lake City, Utah; that on August 13, 1857, they started fifty-eight wagons drawn by oxen and five wagons drawn by mules loaded with merchandise belonging to themselves from Fort Leavenworth, Kans., to Salt Lake. That there were seven hundred and fifty head of cattle, thirty-seven mules, and seven horses in their train. They allege that en route they were overtaken, and their trains taken possession of, by General Johnston and used for the benefit of the Army, and they claim compensation under the act of March 3, 1849.

That there was some control over this property exercised by General Johnston there seems to be no doubt, but whether it was of such a character as to amount to an impressment under said act is not clear. The transaction was a continuing one, covering two or three months of time, perhaps, and is such a case as could not be examined by this committee so as to do justice to all parties, hence they think the matter should go to the Court of Claims.

Joseph C. Irwin & Co. were freighters, and they allege that their teams and wagons were also taken possession of by General Johnston on the same expedition, and that their wagons, &c., were subsequently sold to the Government, but that they have never been remunerated either for their property impressed, as they allege, nor for the property sold to the Government.

It appears to this committee that under the circumstances of th case that it should go to the Court of Claims for adjudication.

The committee suggest that in line 4 of the printed bill, after tl word "property," that the following words be inserted: "claimed have been," and also that in line 7, after the word "expedition," tl following be inserted: "as well as for property alleged to have bee sold to the Government," and that as amended the bill pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 808.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. JONES, of Arkansas, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1554.]

The Committee on Claims, to whom was referred the bill (S. 1554) for the relief of William Talbert, have had the same under consideration, and report as follows:

This claim seems to have been presented to the Forty-second Congress and to each succeeding one, and to have had two favorable reports in the House and one adverse in the Senate.

A report made to the House dur ng this Congress by Mr. Shaw appears to state the case fully, as follows:

It appears from a letter of the Chief of the Bureau of Yards and Docks, addressed to the Secretary of the Navy, and filed in this case, that some time in the year 1862, William Talbert, either by letter or verbally, asked permission to have tried an appliance to heave up vessels on the ways at the navy-yard at Washington, D. C. The trial of this appliance was authorized by the said Bureau, the expense of making the same to be charged to "yard repairs."

The appliance was to enable the yard to haul up a vessel of greater length of a given draught than could otherwise be done at said yard without the use of said appliance, and by the less convenient means which had been in use before its adoption. At the time this appliance was placed upon trial, and which served its purpose, said Talbert was in the employ of the Government, and the device was not patented. Subsequently, in 1864, Mr. Talbert obtained a patent for his invention, but has not received any compensation from the Government for its use. The bill proposes to refer Mr. Talbert's claim against the Government for the use of said appliance to the Court of Claims, said court to be authorized and directed to take jurisdiction thereof and to award judgment therein according to its value to the Government during the existence of said patent.

That the Government of the United States, when it grants letters patent for a new invention or discovery in the arts, confers upon the patentee an exclusive property in the patented invention, which cannot be appropriated by the Government itself, there is no doubt. The Supreme Court of the United States, in the case of James *v.* Campbell (U. S. Rep., 104), says the Constitution gives to Congress power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," which could not be effected if the Government had a reserved right to publish such writings, or to use such inventions without the consent of the owner. The Government of the United States as well as the citizen is subject to the Constitution, and when it grants a patent the grantee is entitled to it as a matter of right, and does not receive it, as was originally supposed to be the case in England, as a "mark of grace and favor." The mode of obtaining compensation from the United States for the use of an invention has never been specifically provided for by statute. In the judgment of your committee the proper forum for claims of this character is the Court of Claims, and they therefore recommend that this bill do pass.

This committee recommend that the bill be amended by striking out the words "on principles of equity and justice," at the conclusion of the same, and that as amended it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 809.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. CHACE, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 1908.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1908) entitled "A bill to amend section 4004 of the Revised Statutes, providing for additional pay for postal cars," have had the same under consideration, and report the accompanying bill as as ubstitute therefor.

By section 4004 of the Revised Statutes, which was originally enacted March 3, 1873, it was provided as follows:

> Additional pay may be allowed for every line comprising a daily trip each way of railway post-office cars, at a rate not exceeding twenty-five dollars per mile per annum for cars forty feet in length; and thirty dollars per mile per annum for forty-five-foot cars; and forty dollars per mile per annum for fifty-foot cars; and fifty dollars per mile per annum for fifty-five to sixty foot cars.

In the course of the business of the Post Office Department, it was found that in many parts of the country the needs of the service did not require cars so long as 40 feet, and, at the request of the Department, various railroad companies built and fitted up for the use of the Post-Office Department postal cars of such varying lengths as was adapted to the necessities of the service, the Department paying them therefor a rate proportionate to the length of the cars. This has been going on for many years. During the past year the Department, under the advice of the Assistant Attorney-General for the Post-Office Department, ceased to pay the railroad companies for furnishing and hauling all cars less than 40 feet in length, upon the ground taken by the Solicitor, that there was no authority in law for paying it. At the desire of the Department the railroad companies have continued to perform the service up to the present time without pay. The object of the present bill is to remedy the difficulty, and so declare the law that the Department may feel authorized to pay for the service performed.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 810.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 859.]

The Committee on Pensions, to whom was referred the bill (S. 859) granting a pension to Charlotte O'Neal, have examined the same, and report:

The claimant, Charlotte O'Neal, is the widow of Richard O'Neal, late colonel of the Twenty-sixth Regiment Indiana Volunteers. It appears from the evidence in this case that the soldier was the first colonel of the above command; that he resigned and went home by order of Governor O. P. Morton and was put in charge of the United States camps at Indianapolis, Ind., and that, while performing the duties of that position, he contracted disease and died in January, 1863. The funeral ceremonies were conducted under a special order of Col. Henry B. Carrington, of the Eighteenth United States Infantry, which is as follows:

[Special Order No. 351.]

HEADQUARTERS UNITED STATES FORCES,
Indianapolis, January 6, 1863.

1. The funeral ceremonies of Lieut. Col. Richard O'Neal will take place from his late residence, on Virginia avenue, this day, at 2 o'clock p. m. The escort will consist of six companies of the Seventy-first Indiana Volunteers, and will form at the late residence of Lieut. Col. O'Neal at half past 1 o'clock p. m., precisely.

2. Other military bodies joining the procession will march directly after the family of the deceased.

3. The late Lieut. Col. O'Neal, having performed faithful service in the field, and having distinguished himself by unremitting devotion to his country's service, in charge of the camps near Indianapolis during the last four months, as well as on account of his high character as an officer and gentleman, the commandant of this post will take charge of the funeral ceremonies on the occasion.

By order of Col. Henry B. Carrington, Eighteenth United States Infantry.

LIEUT. LEWIS T. MORRIS,
Nineteenth United States Infantry, Acting Adjutant.

The widow now asks that a special act be passed granting her a pension at the same rate allowed to the widows of officers of the same rank. She has not applied at the Pension Office, because the disease from which her husband died was incurred after his formal resignation. Such disease was, however, incurred virtually in the service and while Colonel O'Neal was in charge of the United States camps at Indianapolis.

Your committee are of opinion that, as it appears that the sold was in charge of Government troops and virtually performing the du of an officer of the United States when he contracted the disease, a that his services to the United States resulted in his death, his wid should receive the benefits of the pension laws. Although not wit their letter, it certainly comes within their spirit, and your commit report back the bill with the recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 811.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3326.]

The Committee on Pensions, to whom was referred the bill (H. R. 3326) granting a pension to Thomas Simpson, have examined the same, and report:

That an examination of the evidence in this case verifies the report made by the Committee on Invalid Pensions of the House of Representatives, which is as follows:

The claimant, Simpson, enlisted January 2, 1864, as a private in the Seventh Indiana Battery. At that time the evidence is conclusive that he was a strong and healthy man.

George C. Masterman, who was second lieutenant of the battery, testifies that on or about the 22d of July, 1864, at Atlanta, Ga., the battery was ordered into position; that the claimant, with others, was ordered in front of the battery to carry rails to build breastworks; while so engaged the order was given to fire; Simpson not being aware of the order came immediately in range of one of the guns, the concussion of the shell or the powder knocking him down, rendering him insensible for fifteen or twenty minutes, he being so close to the gun that his face was blackened by the powder. That after this occurrence he was never able to do full duty again during the remainder of his term of service; that before this he had always been able to do duty at all times.

Comrades Fletcher, Johnson, and Deford all testify substantially to the foregoing, saying they were present and witnessed the occurrence and that they cannot be mistaken about it.

The evidence is that there was no surgeon with the battery regularly; that occasionally one would be detailed, but would remain only a short time. The records of the Surgeon-General's Office show that Simpson was admitted to general hospital at Jeffersonville, Ind., May 23, 1865, from New Albany, Ind., as convalescent (no other diagnosis), and returned to duty June 8, 1865. That the regimental records are not on file. Claimant was discharged July 13, 1865, under provisions of General Order No. 27, Department of Kentucky. His neighbors who were acquainted with him before he entered the service testify that since discharge he has not been able to perform labor for at least two-thirds to three-fourths of the time.

The claimant filed application for a pension in June, 1866, and alleged partial deafness and blindness; also incapacity to do manual labor, caused by concussion. This has been rejected by the Pension Office for the reason that the medical examination does not disclose the fact that applicant was injured to the extent of preventing him from obtaining a living by manual labor. Against this, however, is the testimony of his neighbors, who all unite in saying that they knew him before he entered the service to be a strong, healthy man, and since discharge that he is a broken-down man and not able to do manual labor; that his injury has developed into epilepsy, and at the present time that he is totally incapacitated from earning a living by manual labor.

The bill is accordingly reported to the Senate with the recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 812.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1902.]

The Committee on Pensions, to whom was referred the bill (H. R. 1902) granting an increase of pension to Simon Fought, have examined the same, and report:

Your committee, after a careful examination of the condition of this claimant, adopt the report of the House Committee on Invalid Pensions (House Report No. 1057), and report back the bill with a recommendation that it do pass.

The records and papers on file in the Pension Office show that Simon J. Fought, late corporal of Company D, Forty-sixth Ohio Volunteers, is now on the pension-rolls at $24 per month for disability resulting from gunshot wound received in action at Big Black River, Mississippi, July 5, 1863, described as follows by the medical examiners:

Gunshot wound above right groin, passing through bowels, its exit below umbilicus; cicatrix adherent to intestines (large on right side), which are contracted and require mechanical assistance in passing feces beyond the wound.

The rate allowed is that provided by law for a disability equal in degree to that resulting from the loss of a hand or foot.

The petitioner cannot obtain a higher rate of pension under the general laws than $24 per month.

It is also made to appear to the committee that Fought's present condition is that of great weakness, precluding manual labor, owing to this fact and to a constant danger of rupture at the wounded part.

Your committee consider the petitioner's prayer as entitled to consideration, and respectfully recommend the passage of the bill with the following amendment:

Strike out all after the word "volunteers," in line 6, and insert the words "to $30 per month," so that the bill will provide for a pension of $30 per month to the petitioner.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 813.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 16.]

The Committee on Pensions, to whom was referred the bill (H. R. 16) granting a pension to Nancy L. Ribble, having examined the same, submit the following report:

That upon a full investigation, the committee find that the favorable report upon this case made by the Committee on Invalid Pensions of the House of Representatives fully sets out all the material facts therein, and your committee make the same a part of their report.

The report of the House committee is as follows:

The beneficiary in this bill has no children of her own. In 1844 her sister died, leaving two infant children, one aged two years, the other six months. She nurtured and educated both of these children, and they lived with her and her husband and assumed the name of Ribble, their real names being Shafer. Both enlisted in Company K, Nineteenth Indiana Volunteers, on the 29th day of July, 1861; George, the older, being then in his nineteenth year, and Andrew, the younger, then in his seventeenth year. George died of small-pox in the District of Columbia on the 12th day of January, 1862, while in the service. Andrew was severely wounded through the lungs in the battle of Antietam, and never recovered therefrom, and died shortly after his discharge.

Mrs. Ribble and her husband were at the time they took these children, and have been ever since, poor people; but, as shown by the testimony of respectable witnesses, have at all times maintained good characters for honesty, integrity, and patriotism. Letters from two soldiers are exhibited, showing that during their service they contributed a portion of their pay to the support of their foster parents. They had expected to lean upon these two men in their old age, whom they had nurtured and educated so that they might expect to be able to do so, and whose affections they commanded as shown by their letters. They were to all intents and purposes the children of this woman, who is now old, feeble, and helpless. The father of the two soldiers has been dead many years, and was never pensioned on account of the death of either.

Under these circumstances this committee do not hesitate to ask for the passage of the accompanying bill.

Your committee believe, from the facts stated, that this is a very worthy case, and recommend that the bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 814.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7118.]

The Committee on Pensions, to whom was referred the bill (H. R. 7118) granting a pension to Bailey Hascall, have examined the same, and report:

The evidence in support of this claim is fully set forth in the annexed report (House Report No. 1527); your committee having carefully examined the same recommend the passage of the bill.

The evidence on file in the Pension Department shows that the claimant was appointed acting assistant paymaster in the United States Navy June 30, 1862, and was discharged September 9, 1865. The following is a summary of the services, exposures, and sufferings of claimant while in the service:

August 7, 1862, reported to Rear-Admiral Du Pont for duty on board the United States gunboat Madgie and did duty on her from that date to October 11, 1863; she was acting as a blockader and picket-boat in the marshes and inland channels and rivers of Georgia and South Carolina; before that she had been condemned as unseaworthy by board of survey, and was twice so condemned while he was on duty on her, her boilers and flues continuously bursting; her hull was water-soaked and leaky, requiring constant pumping; the rain came through her deck in the officers' quarters and wet their berths and the living-rooms occupied by twelve of the officers, including the claimant, the room being 8 feet by 14 feet in size, and located directly over the furnaces and in the rear of the engine. While in her the claimant was constantly exposed to dampness and the malaria of the marshes. This boat foundered October 11, 1863, the officers and men escaping in small boats and being taken to Hampton Roads. This exposure to dampness and malaria brought on rheumatism.

In January, 1864, he reported for duty on board the steamer Chenango. In April, 1864, in New York Harbor, the boilers of the steamer exploded. The chief engineer and three other officers were scalded to death. The exertions of the claimant in caring for his dying friends and the shock of the explosion brought on nervous debility, which resulted in sciatic rheumatism, abhorrence of food, inability to sleep, and general prostration. After being cared for awhile on shipboard he was carried to the house of a friend in Brooklyn. While on the Chenango Assistant Surgeon D. P. Goodhue, of New Hampshire, attended him.

In August, 1864, and before he was fully recovered, he was ordered to take charge of stores on board of the chartered steamer Aphrodite, bound to the Gulf of Mexico. On the second voyage of that vessel she was wrecked at Cape Lookout, North Carolina, and was a total wreck. Twenty men were drowned and missing. The claimant and others saved from the wreck were landed on a barren, sandy island, exposed to the weather, which was then stormy and cold, with very little food and no fuel for six days. They were then taken off in lighters, each containing from seventy to eighty men, through the channel to the fleet then at Beaufort, a trip lasting twenty-four hours, in the midst of a heavy rain, with no covering over them, and so crowded that there was not even room to sit down.

He was then transferred to the United States steamship Mercedita, and was ordered

to begin transferring men to Admiral Farragut's squadron. This continued about thirty days, when, by proper orders, he reported for duty at the Brooklyn navy-yard, where he was directed to take charge of the payment of bounty to the enlisted seamen, paying large sums of money—sometimes as much as $150,000 in a day—until at last, in consequence of his sickness and debility occasioned by his exposure, he was compelled to and did resign.

The fact that the claimant was in good health at the time of his appointment to his position in the Navy is very clearly shown, especially by the affidavit of William A. Wheeler, late Vice-President of the United States, who states in his affidavit that he had known the claimant from his birth; that at the time of his appointment to the Navy he was to every appearance in perfect health; that in the spring or summer of 1864 he, accompanied by his clerk, returned to Malone, the home of said claimant and said Wheeler, and remained there several weeks. He was then very feeble and almost helpless, having lost flesh, appetite, and strength; that there has been a steady decline in his health and strength, and that the claimant has never been a well man since said explosion; that for several years he has had frequent hemorrhages of the lungs, and is now poor and is supported by the labor of his wife.

Dr. James R. Bird, a physician of Brooklyn, testified in October last that he had known claimant for eighteen years; that prior to 1868 he prescribed for him for rheumatism; that in 1870 he began treating him for rheumatism; in 1878 he performed a severe operation for fistula, and that he has been suffering from rheumatism, piles, and malaria continuously—rheumatism and piles off and on and malaria all the time. The affiant then speaks of the claimant having a disease of the lungs, and when asked by the examiner about the present condition of the claimant arising from his service in the war, states that he has no doubt but that it is the result of exposure, &c., arising from his services in the war.

Dr. Goodhue, who was acting assistant surgeon on the Chenango at the time of the explosion of the boiler, states that the claimant was immediately afterwards prostrated by the shock to his nervous system and what appeared to be sciatica, so that he was confined to his bed, and that after treating him five or six days he took him to the house of a friend in Brooklyn; that since that time he has known nothing of claimant.

George W. Paschal, the special examiner, who took nearly sixty pages of testimony in this case, in his report says:

"That the claimant is simply existing at the present time (October, 1885). He is entirely unable to make the least exertion. The claimant is a gentleman of education and of the best family connection in Northern New York. His life-long reputation for integrity and scrupulous probity is exceptionably good. All the parties testifying and connected with the case are of excellent repute and standing. The claim is scrupulously free from any suspicion of being a made-up case. The sole question is one of medical decision.

"That the history of his case as given by the claimant himself is true, I have no doubt. Nor have I any doubt about the claim being meritorious and worthy of admission."

The claim was rejected at the Pension Office solely on the ground that there was not sufficient evidence tracing the present disability of the claimant as a result of service.

The committee, after carefully examining the voluminous evidence in the case, think that while there may not be sufficient evidence to comply with the rules of the Department, the claim is a just and meritorious one, and they therefore recommend that the bill pass.

We do this more confidently from the fact that the Commissioner of Pensions, in a letter of the date of April 1, 1886, to the chairman of this committee, recommends that this be done.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 815.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3205.]

The Committee on Pensions, to whom was referred the bill (H. R. 3205) granting a pension to George W. Guyse, have examined the same, and report:

The facts in this case are fully set forth in the annexed report, which your committee have carefully verified, and adopt (see House Report No. 444), and recommend the passage of the bill.

The claimant enlisted on the 25th day of September, 1863, for one year, as a private in Company L, First Alabama Cavalry, and was discharged September 28, 1864, and filed his application for a pension on the ground of disability incurred while in the service and in the line of duty, to wit, a gunshot wound in the left knee, received in a skirmish with the enemy at Jackson, Tenn., on or about the 25th day of December, 1863. Said claim was rejected on the ground that there is no record of the alleged gunshot wound of left knee, and no satisfactory evidence showing the origin of said wound while in the service in the line of duty, and claimant declared his inability to furnish further testimony.

Claimant alleges that at Jackson, Tenn., about December 25, 1863, he received a gunshot wound in left knee immediately below the knee-cap, while engaged in a skirmish with Forrest's command, and that he cannot furnish the testimony of a commissioned officer, for the reason that his captain was not in command when he was wounded, but was on detached service and never was in actual command of the company; that Lieutenant Fishback, who was in command, is dead, having died before claimant filed his application for pension; and that Lieutenant Fiter cannot be found, although he had made diligent search and inquiry for him, and that he is unable to furnish further testimony of comrades or of persons who saw and examined his wound at the date of discharge except David Cummings; that affiant is a cripple and extremely poor, and it is utterly impossible for him to make any further proof of parties who saw his wounds at the date of his discharge.

Isom Fleetwood, a comrade, swears that on or about the 24th of December, 1863, while engaged in battle with Forrest's command near Jackson, Tenn., the claimant was wounded in the left knee, and, to the best of affiant's belief, was taken to a field hospital near Corinth, Miss., and treated for his wound for about six weeks; that he saw claimant several times while he was in the hospital, and examined his wound, and was present when he was wounded, and knows that he was wounded while engaged in battle, and saw him taken off the field while the fight was going on.

Peter F. Holt, another comrade, swears to substantially the same state of facts.

Dr. James W. Stewart swears that he examined the claimant's wounded leg, and that the wound is located in the left leg immediately below the patella, or knee-cap, it being, in affiant's opinion, the result of a gun shot; ball penetrated below the knee-cap, dividing the tendon that unites the patella to the tibia, and has destroyed the usefulness of the limb to the amount of about one-fourth of total disability, and that he had known claimant about one month.

Dr. A. H. Jones swears substantially to a similar state of facts, and that he did not know claimant prior to the examination.

David Cummings swears that claimant was wounded while engaged in action; that he examined his wound about the time he was discharged, and a month or two afterwards; there was a deep scar just below the left knee-cap, the leg above and below the wound being considerably shrunk and smaller than the right leg; there was a sink, as well as he remembers, at a point where scar is located, and seemed to affiant that some of the bones or tendons has been wounded, causing claimant to limp very badly, left leg seeming to be shorter than the right; affiant lived near claimant after he returned from the Army, and saw him very frequently.

Dr. James W. Stewart is also the examining surgeon of the Pension Office, and rated applicant's disability to about $6 per month.

It is but fair to state that there is some evidence of other parties tending to throw some shadow on the credibility of claimant's testimony, and if taken alone might create a doubt of his right to a pension; and as we rely upon the examination made by the medical experts, one of whom was an agent of the Government, we cannot fail to conclude that claimant received his disability in the service and in the line of duty, and therefore recommend the passage of the bill, after striking out all after the word "cavalry" in line 7.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 816.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1330.]

The Committee on Pensions, to whom was referred the bill (H. R. 1330) granting a pension to Martin Taylor, have examined the same and report:

The facts in this case are fully detailed in the accompanying report of the House Committee on Invalid Pensions (House Report No. 1209), which your committee adopt, and recommend the passage of the bill.

The soldier was a private in Company D, Twenty-third Regiment Kentucky Volunteers, and in his declaration for pension alleges disability from gunshot wound, causing fistula in ano. The claim was rejected at the Pension Office on the ground that the alleged wound was not incident to the service and line of duty.

The claimant testifies that while the regiment was camped on the Cumberland River, about 3 miles from Nashville, Tenn., many of the soldiers as well as himself, by permission of the commanding officers were permitted to fish in said river, and on or about June 10, 1865, while he with others were fishing about 3 miles below the camp, and on the opposite side of the river from the camp, they were surprised by guerrillas or bushwhackers, who fired at them; two shots struck claimant in the lower part of his back, a few inches above the anus. He was taken prisoner by these guerrillas and placed on a horse in front of one of them and carried to their camp, crossing the Cumberland River a few miles above Clarksville, Tenn., on a ferry-boat. They continued a southward course for many miles, until they reached a camp a few miles west of Savannah, Tenn., near the bank of the Tennessee River. Here the claimant was visited by a neighbor of that camp, whose name was Jack Sterling, who was permitted to wait upon him for two days. He was then carried to another camp, where a prisoner named Burl McKinzie was ordered to attend him, and he, with the aid of one of the captors, was ordered to cut the bullets out of his back. This the prisoner and the guard did June 16, 1865, six days after the capture, by cutting out a block of the flesh and probing for the bullets with the points of knives. The captors furnished soap and oil for the wounds, and good cool water with which to bathe them every day. Infuriated citizens near by the camp, who had been plundered by these guerrillas, armed themselves, and in a body, October 27, 1865, fired on them, and he and McKinzie were allowed to depart in the confusion. McKinzie very kindly took him to his home in McNairy County, Tennessee, and cared for him, Dr. Irwin, of Savannah, Tenn., supplying medicine for his wounds. He remained with McKinzie until June or July, 1866, when he went to the house of Jack Sterling, near Pittsburg Landing, where he remained a short time.

The wounds healed very slowly, and in December, 1866, blood boils began to break out all over the body from the groins downward. One very large one came within half an inch of the anus, which broke in the bowel one and a half inches from the exterior, and in a few days broke out on the exterior and formed a complete fistula in the anus. He obtained employment as a school teacher, as he was unable to perform manual labor, and, suffering from severe pains of fistula, which continued to

enlarge until April 21, 1872, he had an operation performed by Drs. Alexander Thompson and William C. Stoval, and the fistula was cut out, but it did not heal perfectly, but left a lump about the size of the end of the little finger, causing him to suffer much pain, and he is now told by physicians that he suffers from blind fistula.

The records show the claimant a deserter at Camp Harker, Tenn., June 10, 1865, and also that the charge of desertion was afterwards removed.

Claimant's comrades testify that he was wounded at the time and place and in the manner alleged, and afterwards taken a prisoner; and it is testified to that the fishing was by consent of the commanding officers of the company.

Capt. Elijah B. Hodges, of Company B, Sixth Regiment Tennessee Cavalry Volunteers, testifies that he knows claimant to have been wounded in 1865 by bushwhackers, and is informed from reliable sources that he was detained a prisoner until October, 1865.

Burl McKinzie testifies that he was a prisoner with the claimant and dressed his wounds, and, with the aid of one of their captors, cut out the two bullets, which were shot into his back near the anus, and was his constant nurse and attendant for nearly five months before their release, and for nearly a year after at his own home.

Jack Sterling testifies that he knows the claimant to have been a prisoner, as stated.

Dr. William C. Stoval testifies that Dr. A. Thompson and himself performed an operation upon claimant by cutting out the fistula about April, 1872, and, from the nature of the wound, believes it was the sole cause of the fistula.

Dr. C. M. Cursell testifies that he has made a careful examination of claimant, and finds him suffering with a fistula in ano, caused, as affiant believes, from a wound received at the apex of the sacrum, involving also the corona of the coccyx, and also with weakness of the loins and a partial loss of vitality in the genital organs, caused, in affiant's opinion, from said wound. Claimant is totally unfit for manual labor, and has to earn his support by light labor.

Other witnesses testify that claimant has been, and is, a constant sufferer from his disability, and incapable of performing manual labor.

Considering that the claimant, with others, was fishing by the consent of the commanding officers of his company at the time of the receipt of the wound, which, from the testimony of physicians, has caused his fistula, your committee are of the opinion that it should be considered as having been received in the line of duty, and also, considering the sufferings undergone by the claimant while a prisoner and since, deem this a most worthy case, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 817.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7167.]

The Committee on Pensions, to whom was referred the bill (H. R. 7167) granting a pension to Mrs. Maria Hunter, have examined the same, and report:

The facts upon which the relief is asked are stated in the following report of the House committee (House Report No. 1522), which your committee adopt, and recommend the passage of the bill with the following amendment: Strike out in the eighth and ninth lines the words "six hundred dollars per annum" and insert in lieu thereof "fifty dollars per month."

The claimant is the widow of the late Maj. Gen. David Hunter, who died on the 2d day of February, 1886. General David Hunter was one of the most distinguished soldiers of the late war, as his military record, herewith attached and made part of this report, shows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., March 20, 1886.

Statement of the military service of David Hunter, late of the United States Army, compiled from the records of this office.

He was a cadet at the United States Military Academy from September 14, 1818, to July 1, 1822, when he was graduated and appointed second lieutenant Fifth Infantry; promoted first lieutenant June 30, 1828; appointed captain First Dragoons, March 4, 1833, resigned July 4, 1836; appointed additional paymaster November 13, 1841; vacated appointment as such March 14, 1842, having been appointed major and paymaster United States Army from that date; appointed colonel Sixth United States Cavalry, May 14, 1861; brigadier-general United States Volunteers, May 17, 1861, and major-general United States Volunteers, August 13, 1861; honorably mustered out of the volunteer service January 15, 1866; retired from active service with the rank of colonel July 31, 1866.

He was breveted brigadier-general United States Army March 13, 1865, "for gallant and meritorious services in the battle of Piedmont and during the campaign in the valley of Virginia," and major-general United States Army, March 13, 1865, "for gallant and meritorious services during the war."

He joined his regiment in January, 1823, and served therewith in Minnesota to April, 1825; on leave to November, 1825; with regiment in Minnesota and Wisconsin to October 23, 1827; on leave to April 15, 1828; with regiment in Minnesota to June, 1828; at Jefferson Barracks, Mo., to October, 1828; at Fort Dearborn, Ill., to May, 1831, and at Fort Howard, Wis., to June 28, 1831; on leave to June, 1832; with regiment at Forts Winnebago and Howard, Wis., to April 18, 1833, when, having been appointed captain First Dragoons, he left to join that regiment and served therewith at Jefferson Barracks, Mo., to November 20, 1833, and in the Indian Territory and Kansas to January 20, 1836; on leave to July 4, 1836, when he resigned.

He served in Florida from date of reappointment in the Army as additional paymaster until April, 1842; at Washington, D. C., to June, 1842; in Arkansas to July, 1846; in the war with Mexico to July, 1848; at New Orleans, La., to March, 1849; at Washington, D. C., Detroit, Mich., and New York City to May, 1856; in Kansas and Saint Louis, Mo., to February, 1861, and at Washington, D. C., to date of appointment as colonel Sixth United States Cavalry.

He served as a brigade and division commander in the Department of Northeastern Virginia (General McDowell's army) from May 28, 1861, to July 21, 1861, when wounded in action at Bull Run, Va.; commanded first division of the Western Department from September 22, 1861, to November 3, 1861, the Western Department to November 19, 1861, the Department of Kansas to March 11, 1862, and the Department of the South from March 15 to August 22, 1862; on leave to September 23, 1862; member of a military commission at Washington, D. C., to January 20, 1863; commanding Department of the South to June 12, 1863; on special duty at Washington, D. C., to March 29, 1864; awaiting orders to May 19, 1864; awaiting orders to January 31, 1865; on special duty and awaiting orders to muster-out of volunteer service January 15, 1866; on leave of absence to July 31, 1866, when he was retired at his own request, being over sixty-two years of age (act July 17, 1862).

He served as a member of the special claims commission from August 9, 1866, and also of a board for the examination of cavalry officers to June 16, 1868, from which date he was unemployed until he died, February 2, 1886.

R. C. DRUM,
Adjutant-General.

In view of this record, and the present condition of his widow, your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 818.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3193.]

The Committee on Pensions, to whom was referred the bill (H. R. 3193) granting a pension to Mrs. Edna Roberts, have examined the same and report:

The facts of this case are stated in the accompanying report of the Committee on Invalid Pensions of the House of Representatives (H. R. Report No. 250), which we adopt, and recommend the passage of the bill.

Wright Roberts, husband of the applicant, Edna Roberts, enlisted as a private in Company F, Third Regiment Ohio Cavalry, on the 26th day of August, 1862, and is reported on the muster-rolls to October 31, 1863, January, February, 1864. Name not borne on subsequent roll.

Absent, captured at Woodville, Ala., November, 1863. Name not borne on subsequent rolls of company. Prisoner of war records furnish no information. He was killed by guerrillas on or about December 19, 1863, in Jackson County, Alabama, while returning to his regiment from a temporary leave of absence to visit his family. The above is a copy of the record on file in the Pension Office. Widow's claim for pension was rejected on the ground that the soldier was not in the line of duty when killed.

The affidavit of his sons, John N. and James I. Roberts, who served in the same regiment with Wright Roberts, their father, states he was killed on or about December 19, 1863, in Jackson County, Alabama, while returning to his regiment from a temporary leave of absence to visit his family, who resided in said county and State; that his remains were found a few miles from his home, showing every evidence that he had been murdered by guerrillas, and that members of guerrilla bands have since acknowledged to them that their father was killed by them; and that at the time he was killed, if he had any written leave of absence it was on his person and destroyed by his murderers, but they know the fact that he had authority from his commanding officer to visit his family, and that he left his home for the purpose of returning to his regiment, and while so returning was killed as aforesaid.

The widow at this date is quite aged and poor. While there may be some doubt as to the propriety of the Pension Office acting favorably on the applicant's claim for a pension as the widow of deceased soldier, your committee is of the opinion that the case is a meritorious one, and therefore recommend the passage of the bill, after striking out all after the word "five," in line 9.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 819.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1184.]

The Committee on Pensions, to whom was referred the bill (H. R. 1184) granting a pension to Stephen Gardner, have examined the same, and report:

The evidence in this case is briefly stated in the accompanying report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 457), which your committee adopt after careful examination, and recommend the passage of the bill.

That Stephen Gardner was mustered into the service March 20, 1864, in Company D, Tenth Regiment Michigan Infantry, and was discharged at the close of the war, July 19, 1865. He applied for a pension March 10, 1875, alleging hernia, caused by a fall and being run over during a charge in the battle of Jonesborough, Ga., September 1, 1864. His claim was rejected on the ground of no record of rupture and no satisfactory proof of incurrence in the service.

C. W. Stockwell, ex-surgeon, certifies May 10, 1875, that he examined Gardner, and finds "double inguinal hernia—right very large, coming far down in scrotum."

The proof as to incurrence is two comrades, John D. McKenzie, who says he saw him fall and afterwards procured him a truss, and George Edwards, who remembers hearing Gardner complain of being hurt, and of a comrade procuring a truss for him.

Henry Wideman, late captain of Company D, states that claimant told him he had procured a truss for his rupture, and that he received it by falling in a ditch September 1, 1864.

This case was referred for special examination, during which two witnesses testified they had been informed Gardner had hernia at the time he enlisted. For this reason, and because there was no record evidence, the claim was rejected.

The testimony of Dr. Miles Huckins shows that Gardner was suffering from a rupture on his return home from the Army.

From all the evidence in this case your committee are inclined to believe the incurrence was as stated by Gardner. He served faithfully from enlistment to close of the war. He was no bounty-jumper, and had no reason to conceal any disability existing at time of enlistment.

His examination at time of muster disclosed no disability. He could have had no thought of laying the foundation for a pension at the time he says he was hurt. He shirked no service by going to hospital, but made the best effort he could and as little complaint, and kept in line of duty, with no thought of pension or reward till increasing disability compelled him, ten years after discharge, to ask relief by pension. His disability at close of war and since is not disputed or in doubt.

We therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 820.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5127.]

The Committee on Pensions, to whom was referred the bill (H. R. 5127) granting a pension to Mary A. Ripley, have examined the same, and report:

That the main facts in this case are set forth in the accompanying report (House Report No. 586), which, after examination, your committee adopt, and recommend the passage of the bill.

That Mary A. Ripley was a voluntary nurse in the Army of the Potomac during the war of the rebellion, is shown conclusively by the numerous original passes among the papers in her case.

She avers in her petition, which is sworn to, that she became a nurse upon the personal request of President Lincoln and Surgeon-General Barnes. The following are extracts from letters of indorsement among her papers:

Lieut. John J. Gosper, secretary of Arizona Territory, speaks of her in the following commendatory and earnest language:

"I have been acquainted with Mrs. Mary A. Ripley since the commencement of the late war, and am conversant with the fact of her having given both time and money freely for the comfort of the sick and suffering in the hospitals. Knowing of her excellent service in that capacity in those trying times, and knowing further that she is in great need of the small amount justly her due from the United States, I most earnestly advocate the passage of an act looking to the relief this deserving and worthy lady."

John S. Poler, formerly receiving and distributing agent New York Soldiers' Relief Association, says:

"It affords me satisfaction to state that with the sick and helpless Mrs. R. was always praised for her uniform kindness and attention. Among the many hospitals where I have met with Mrs. Ripley in the discharge of the above-named duties, I may name Falls Church, Fredericksburg, Alexandria, Georgetown, and several in and about this city. I have no hesitation in saying that I believe her services were of great value to the country at the time when faithful attendants were not plenty."

General Rufus Ingalls, says:

"Mrs. Ripley is one of those ladies who sacrificed much of personal comfort and means during the war in caring for our sick and wounded soldiers. I personally know of her humane efforts, and that they were of an importance entitling her to some recognition now on the part of the Government."

Maj. Albert M. Edwards, Twenty-fourth Michigan Volunteers, says:

"I take great pleasure in recommending Mrs. Dr. Ripley, of Alexandria, Va., to the kind attention of the officers and soldiers of the Army of the Potomac. Mrs. Ripley has visited this regiment several times during the past winter as an independent agent of the Sanitary Commission. She has brought with her sanitary supplies for the sick, and with her tender hand and kind words of cheer has soothed and encouraged the suffering soldier."

In view of the foregoing and the additional facts that this person is now advanced in age and in restricted pecuniary circumstances, your committee are of opinion that she should be granted the pension she asks for, and therefore recommend the passage of the accompanying bill, with the following amendment: In line 6 of the bill strike out the word "twenty-five" and insert the word "twelve."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 821.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6331.]

The Committee on Pensions, to whom was referred the bill (H. R. 6331) granting a pension to George Anna Lippe, have examined the same, and report:

The facts in this case are fully detailed in the accompanying report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1429), which your committee adopt, and recommend the passage of the bill.

The claimant, George Anna Lippe, is the widow of Constantine Lippe, captain Company A, One hundred and eighty-eighth Regiment Pennsylvania Volunteers, who was honorably discharged from the service of the United States November 4, 1864, on account of disability from gunshot wound of the left leg at the battle of Cold Harbor, Virginia, June 3, 1864. The said Constantine Lippe died January 1, 1885, being at the time of his death a pensioner. The said widow, George Anna Lippe, filed an application for pension January 26, 1885, and it was rejected April 30, 1885, "on the ground that the soldier's fatal pneumonia is not accepted as being a result of the gunshot wound of left leg for which he was pensioned."

Your committee has had occasion frequently to observe it is often a matter of extreme difficulty to trace the consequences of a wound or disability through many years of suffering until it results finally in death; but in the case under consideration we think the evidence submitted is clear and convincing that Captain Lippe's death is attributable to his said wound.

Examining Surgeon V. V. Elting, December 4, 1869, who first examined Captain Lippe for a pension, describes the applicant's condition as follows, viz:

"Upon a careful examination of the said Constantine Lippe, I find that the left tibia has been fractured, and a portion of the bone absent at the junction of the upper and middle third; the fracture is united, but not in proper position, being over one-half an inch to one side. The whole middle third is flattened, very much enlarged, and tender; at the place of wound a piece of dead bone appears to be working out. I find also a loss of substance of the gastrocnemius and soleus muscles; they are attached to each other and to the bone opposite the fracture. The fibula also has been fractured, the upper fragment lapping over the lower externally about 1½ inches. Finally, I find the leg shortened about 1½ inches."

Dr. Elting made another examination of Captain Lippe, September 6, 1873, and certifies as to his wound, viz:

"Upon carefully examining the said Constantine Lippe, I find that he has received a wound from a piece of shell in the upper third of the left leg, by which both bones were fractured. The limb is in consequence shortened about 2 inches and considerably deformed, and at the place of injury a good deal enlarged, with a tendency to the formation of varicose veins. There is occasional escapement of small fragments of bone, one having escaped during the last year, and from appearances another is working its way out. He suffers very much pain in the whole limb upon a very moderate use of it, or in changes of the weather."

October 15, 1875, Dr. Elting, the examining surgeon, again certifies as follows, viz:

"There has been recent escape of small fragments of bone from the wound. He complains of considerable pain in the limb, especially upon a moderate use, or in damp weather."

September 4, 1877, Examining Surgeon Elting again certifies that pieces of bone have worked out of the leg, and that other pieces are working their way to the surface.

Dr. Edward Bayard, one of the most eminent physicians of New York, who was the decedent's physician, and attended him at the time of his death, under oath states:

"I have been in practice for forty years last past. I knew the late Constantine Lippe, M. D., for about twenty years before his decease. I frequently attended him in attacks of illness, and knew of the wound received by him on his left leg, below the knee, in the battle of Cold Harbor, in 1864. It constantly pained and irritated him. He felt in it all the changes of the weather, and suffered even from slight weariness. I attended him at his last illness, in December, 1884. He was taken with pneumonia, though not in a severe form, but his constitution was so weakened and drained by said wound, that although I considered him convalescent from the disease, yet he had not strength to rally from the attack. He died on the 1st day of January, 1885, and I attribute his death to the exhaustion of his vitality by said terrible wound."

Dr. Edmund Carleton, another physician of eminence in New York, who dissected the wounded leg on January 1, 1885, after the death of Captain Lippe, under oath certifies, viz:

"I am a regular practicing physician and have been doing business as such in the city of New York for upwards of fourteen years last past. I was acquainted with Constantine Lippe, M. D., the deceased soldier, for the last ten years before his death. He frequently suffered great pain from his left leg. I examined it a number of times during his life-time. He exhibited several pieces of bone which had worked out of it from time to time. He died on the 1st day of January, 1885, and I dissected the leg on the same day and found a most extraordinary specimen, namely, the skin was adherent to a large part of the shaft of the tibia; about 2 inches of said shaft had apparently been lost and replaced by a large bony mass of irregular shape, which extended to the fibula, which had suffered simple fracture, and displacement by the fragments overlapping each other, and the bony mass above referred to was attached to each fragment of said fibula, thus maintaining the false position of the bone. In my professional opinion the health of deceased was permanently impaired by reason of said wound and his constitution greatly weakened and drained thereby."

Dr. R. H. Biddell, of New York, in his sworn statement, declares:

"That he was personally acquainted with the late Constantine Lippe, M. D., deceased, for a period of about twenty years, seeing him almost daily during a greater part of that time; that to his knowledge the said Lippe suffered severely at frequent intervals from his wounded leg; that this deponent has frequently seen pieces of bone discharged from the wound; that at such times said Lippe was incapacited from business thereby; that in his opinion the said wound seriously affected an otherwise sound constitution."

Dr. Ad Lippe, one of the most renowned physicians of Philadelphia, Pa., the father of Captain Lippe, under oath makes the following statement:

"That my son Constantine was wounded at the battle of Cold Harbor, and was visited by me at the hospital at Washington, after his removal there from the field hospital at Cold Harbor; that my son Constantine came home to my house from the hospital as soon as he could safely be moved; that he there was cared for and treated at home after receiving his honorable discharge from the Army as captain in the One hundred and eighty-eighth Pennsylvania Volunteer Regiment; that finally in two years his wounded leg healed, and he was then enabled to resume his profession as a physician. Ever since then he was subject to very painful neuralgia pains in the limb, returning periodically and interfering then with his professional duties; that he suffered on the last day of 1884, while apparently recovering from an indisposition, with this periodical attack of pain and did survive the 1st of January, 1885, but a few hours. The diseased tibia and fibula is in possession of E. Carleton, M. D., 58 West Ninth street, New York. It is my conviction as a physician that said Constantine Lippe would have readily recovered from his indisposition had he not been attacked with this periodically returning neuralgia in the wounded limb. I am not interested, directly or indirectly, in the petition for a pension to the widow of the late Constantine Lippe."

Mrs. Mary Sedley Smith, of New York, who was present at the last illness of Captain Lippe, in a sworn statement filed with the papers in the case, says that the wounded leg was black and blue; that Captain Lippe called her attention to it, saying that he always said it would cause his death.

Emma Moore, the house servant for more than two years to the late Constantine Lippe, under oath, says:

"That the said Lippe suffered a great deal from a wound in the leg, and at a period of about every three weeks his sufferings would be so intense as to render it almost impossible for him to walk; that on the Monday previous to his death, deponent having been called into his room, found him suffering from severe pains in the leg, which was followed by a violent illness in the evening. Being called shortly before his death to rub the said Lippe while he was in convulsions, deponent saw a large blue spot about the size of one's hand and resembling a bad bruise, which extended all around the wound. The said Lippe never rallied from that convulsion."

Mr. J. E. Sewell, formerly of Company G, Twenty-seventh New York Volunteers, under oath, states that he was several times at Dr. Lippe's home in New York, in October and November, 1884.

"And on those occasions Dr. Lippe mentioned to me the great suffering occasioned by his wounds, and gave strong indications of severe pain, that taxed his endurance to the utmost."

Other affidavits, in corroboration of the statements herein given of Captain Lippe's suffering and the nature of his wounds are filed with the papers of claimant and have been examined by your committee, but from the facts herein presented we are convinced that Captain Lippe's death was the result of his said wound, and your committee recommend that the bill do pass.

Your committee have seldom considered or reported a case more worthy in every respect than the one under consideration.

The claimant before her marriage with Captain Lippe was Miss George Anna Hood, of Washington, D. C., and during the war she was a constant visitor to the wounded and sick soldiers at the different hospitals in and around Washington.

For years she constantly nursed and attended to the maimed and helpless, the lonesome and dying soldiers, and much of her own scanty means was spent in furnishing delicacies for the sufferers in the hospital.

Although a cripple then, as she is now, and at times suffering great pain in consequence thereof, none of our volunteer nurses rendered more faithful, heroic, and noble services. She is now in needy circumstances. All of these facts are clearly shown by abundant testimony filed with her petition to Congress.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 822.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1492.]

The Committee on Pensions, to whom was referred the bill (S. 1492) granting a pension to Ellen Sadler, have examined the same, and report:

The claimant, Ellen Sadler, is a sister of John Sadler, formerly of Company E, Sixty-eighth Regiment Pennsylvania Volunteers. No claim was ever made before the Pension Department, because this case does not come within the provisions of any general law.

The following letter from the Adjutant-General's Office gives the service of the soldier:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 9, 1886.

SIR: I have the honor to return herewith a letter from the Senate Committee on Pensions, requesting the military record of John Sadler, as of Company E, Sixty-eighth Pennsylvania Volunteers, and in compliance with instructions thereon, to report that the records of this office show that John J. Sadler was enrolled August 13, 1862, at Philadelphia, Pa., and mustered into service September 1, 1862, to serve three years, as a private in Company E, Sixty-eighth Pennsylvania Volunteers; that he served therein to January 13, 1863, when he was discharged on surgeon's certificate of disability at Camp Pitcher, Virginia, because of "inguinal hernia of right side, contracted about five days ago while on duty." In said certificate the company commander also certifies that "John J. Sadler has been a good and attentive soldier and has had good health since his enlistment until the 30th December, 1862, when he was first attacked with this disease, supposed to have been brought on by wearing a cartridge box."

I have the honor to be, sir, very respectfully, your obedient servant.

J. C. KELTON,
Acting Adjutant-General.

The SECRETARY OF WAR.

It appears from the evidence before your committee that the soldier was discharged for disability contracted in the service, which disability continued until his death. The certificates of physicians are on file with the papers. The testimony of comrades and others corroborates the evidence as to the incurrence of the disability in the service and its continuance since. The evidence is that the soldier, after his discharge, was unable to do any work whatever, and that his mother and sister were compelled to support him; that after his mother's death the burden of such support fell on his sister, Ellen Sadler, and that she did her duty until disabled by partial paralysis. This paralysis still continues, and it further appears that this sister is left in the most destitute circumstances. The soldier died at the Pennsylvania Hospital.

Your committee are of the opinion that the soldier died from the result of disease contracted in the service, and that his sister who, it appears, is his only surviving relative and now utterly destitute, should receive from the Government some assistance which will in some measure take the place of that which the soldier would no doubt have contributed were he now alive and in good health. We therefore report back the bill, with the recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 823.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. PLATT, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 1359.]

The Committee on Patents, to whom was referred the bill (S. 1359) for the relief of the heirs of Erskine S. Allin, have had the same under consideration, and beg leave to report:

Erskine S. Allin was master armorer at the United States Armory located in Springfield. He spent about fifty years in the service of the Government at said armory. He made an invention for improvement in breech-loading fire-arms (letters patent No. 49959, dated September 19, 1865). He was not employed by the Government to make this invention, nor was it suggested to him by any Government official. It was his own invention. He need not have authorized the use of it by the United States if he had not so chosen, but he did, on the 30th day of October, 1867, execute a license to the Government to use the invention, a copy of which license is appended to this report. No compensation was paid by the Government to him for the use of the invention.

He was not the first inventor of that feature of the alteration of the Springfield musket to the Springfield rifle which is known as the swinging breech-block pivoted to the barrel, swinging upwards and forwards, so that a fixed cartridge could be inserted in the barrel and then closing so that a solid resistance was furnished to the recoil of the cartridge, but seems to have been the first inventor who made such feature a practical operative improvement in the alteration of muzzle-loading fire-arms to breech-loaders. A great many improvements have since been made to his proposed method of alteration, both at the armory and by the adoption of outside inventions which are now in use, making a perfect method of alteration. The gun known as the model of 1865 included all the devices of Allin set forth in his patent, and 5,020 Springfield muzzle-loading rifles were changed to breech-loaders by use of the devices shown in the Allin patent. Subsequent improvements, as has been intimated, were made, and the improved guns were known at the armory as the models of 1866, 1868, 1870, 1873, 1879, and 1884. The history of such improvements shows the gradual and successive approach toward the perfection of the arm as now manufactured. Of the models of 1866, 1868, 1870, 1873, 1879, and 1884, 432,873 Springfield rifles have been manufactured. All of these rifles thus made since the original 5,020 contain one feature of the Allin patent, namely, the locking device, and perhaps the mechanical equivalent of the second claim of his patent, but they also contain a large number of improvements thereon.

No settlement has ever been made by the Government with the in-

ventors and patentees whose inventions have been appropriated by the Government in the alteration of the Springfield muzzle-loading rifle to breech-loaders. In two, and perhaps more, instances suits by patentees whose inventions had been adopted in making the perfected improvement were brought against the former superintendent of the armory, and recoveries were had.

Mr. Allin left a widow and daughter, who are without any means of support left by him, and are poor.

The letter of the Secretary of War, addressed to the committee in reply to inquiries, with papers submitted by the Secretary of War, are appended to this report.

By the communication of General S. V. Benét, Chief of Ordnance, it will be seen that he considers that 10 cents per gun containing the improvement made by Mr. Erskine S. Allin, would be a fair and reasonable compensation. If this rule of compensation were adopted the amount would be $43,331.56. But in view of the fact that a license was obtained by the Government from said Allin, under which a large proportion of the arms to which the improvement was applied were manufactured, the committee are of the opinion that some deduction should be made from the amount recommended by the Chief of Ordnance, and recommend as an adequate compensation to the heirs of said Erskine S. Allin the payment of $30,000.

The passage of the bill referred to the committee is recommended, if amended so as to make the sum named therein $30,000, and further amended by inserting after the word "of," in the ninth line, the words "improvements used in the manufacture of."

WAR DEPARTMENT,
Washington City, March 1, 1886.

SIR: I have the honor to acknowledge the receipt of your letters of the 10th and 18th ultimo, inclosing Senate bill 1359, providing for the appropriation of the sum of $100,000 for the relief of the heirs of Erskine S. Allin, who was the inventor of the Springfield breech-loading rifle musket.

In response to your inquiries whether all or any of the essential features of the Allin patent have been or are now used in the manufacture of the Springfield rifles; how many Springfield muskets were altered to breech-loaders by use of the Allin patent alone, and if Mr. Allin had the foundation patent that appears in the improvement now in use, I beg to inclose herewith a report of the 1st instant from the Chief of Ordnance, and copies of reports from the master armorer and the commanding officer of the National Armory, Springfield, Mass., which will, it is believed, furnish the information requested, so far as the records of this Department show.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. O. H. PLATT,
Chairman Committee on Patents, United States Senate.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., March 1, 1886.

SIR: I have the honor to acknowledge receipt of letters from the chairman of the Senate Committee on Claims, dated 10th and 18th ultimo, inclosing Senate bill No 1359, for the relief of the heirs of Erskine S. Allin.

These papers are herewith returned together with reports from the master armorer and the commanding officer of National Armory, dated 23d and 24th ultimo, which answer all the inquiries of Senator Platt as far as the records of this office show.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

NATIONAL ARMORY,
Springfield, Mass., February 24, 1886.

SIR: In reply to your instructions of the 19th instant, inclosing two letters from the chairman of the Senate Committee on Patents, with Senate bill 1359, for the relief of the heirs of E. S. Allin, formerly master armorer of this armory, to give as full report as the records of the armory and the personal knowledge of myself, the present master armorer, and other employés of the armory can furnish, I have the honor to report, returning herewith the papers referred to above, that the records of the armory show that 5,020 Springfield muzzle-loading rifles were changed to breech-loading arms by using the Allin devices described below, and are known as the Allin alteration or model, 1865, and that 432,873 Springfield (models 1866-'68-'70-'73-79-'83) rifles, exclusive of the aforesaid, have been manufactured since to include the 23d day of February, 1886, having at least one feature claimed in the Allin patent, No. 49959, of December 19, 1865. A copy of the license to the United States to manufacture the claims of said patent is herewith inclosed.

The claims of the Allin patent are as follows: "In this invention a hinged breech-block, lifting upward and forward, causes a slide to move back a certain distance and then liberates a spring tooth on the retractor, allowing a re-engagement on the closing of the breech. The thumb-piece of the latch which locks the breech-block is covered by the nose of the hammer on its descent, thereby securing the safe closure of the breech before the charge can be fired."

"*Claims.*—(1) The combination of a solid recoil block, A, with a pinion, U, and rack, *m*, the first tooth, *s*, of which is hung on a spring, in the manner and for the purpose described. (2) Beveling the front end of recoil block at *c'*, and forming a corresponding bevel, *c*, on the barrel, as and for the purpose described. (3) The projection X, in combination with the lever *f* and hammer *v*, substantially in the manner and for the purpose described."

The aforesaid 5,020 altered Springfield rifles have all the three devices claimed. The 432,843 arms aforesaid have the third or last construction claimed, and what may be considered the mechanical equivalent of the second; that is, the bevel *c'* on the recoil block and corresponding bevel *c* on the barrel do not appear at all, but the two devices, viz, in model 1866 the front end of recoil block, when closed, enters into, for a certain distance, the cartridge-head recess in the chamber of barrel behind the cartridge, and in all subsequent models the fall of the breech-block, being in the same plan with the axis of motion, that is, with the axis of the hinge-pin, the round hinge-lugs of receiver on each side project over, when the block is closed, corresponding cuts in the front end of breech-block, thus securing it from throwing an upward strain on the hinge-pin when under the action of recoil. These constructions perform the same office as the *bevels* aforesaid, and may, as said, be considered mechanical equivalents, though they do not at all resemble the bevels, and in respect to all models subsequent to model 1868, the location is not the same. The construction of the third claim, what is called now the firing-pin guard of the cam-latch thumb-piece is on all the arms, as above stated, substantially as patented. I believe the above and inclosures answer specifically all the questions of the chairman of the Committee of the Senate on Patents and give a complete history of the matter, as personally known here and shown by the armory records. The master armorer's views are stated in his letter of the 23d instant, herewith inclosed.

Respectfully, your obedient servant,

A. R. BUFFINGTON,
Lieutenant-Colonel of Ordnance, Commanding.

The CHIEF OF ORDNANCE,
Washington, D. C.

NATIONAL ARMORY,
Springfield, Mass., February 23, 1886.

SIR: In obedience to your instructions of even date, I have the honor to state my opinion concerning the E. S. Allin patent on fire-arms, No. 49959, September 19, 1865, as having been applied to the Springfield rifles made at this armory, as follows, to wit: The guns known as the model 1865 included all the devices as claimed in said patent. Those of the models of 1866, 1868, 1869, 1870, 1873, and 1884 include the locking device for holding the breech-block closed when in the act of firing, as stated in the Allin third claim, letter X.

I am, sir, very respectfully, your obedient servant,

SAMUEL W. PORTER,
Master Armorer.

Col. A. R. BUFFINGTON,
U. S. Army, Commanding.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., March 10, 1886.

SIR: I have the honor to return letter of the 4th instant from the chairman Senate Committee on Patents, inclosing a bill (S. 1359) for the relief of the heirs of Erskine S. Allin, inquiring "whether it is the opinion of the War Department that the heirs of Mr. Allin are entitled to compensation from the Government, and if so what would be regarded by the Department as a reasonable compensation for the invention which Mr. Allin seems to have made, so far as the same has been adopted and used by the Government," and to report:

The court of inquiry, of which Maj. Gen. George H. Thomas was president, and Generals Hancock and Terry members, and Judge-Advocate-General Holt, judge-advocate, which convened in October, 1868, expressed the following opinion:

"The court is of the opinion that when a person in the military employment of the Government, either as an officer, soldier, mechanic, or laborer, devises a new and valuable improvement in any kind of military material, and with his own means makes experiments and brings to perfection his invention, there is no reason why he should not be permitted to secure to himself any pecuniary value which his invention may have by obtaining letters patent for his invention, under the patent laws of the United States or of foreign countries.

In such a case should the Government make use of the invention, it is but just that it should make compensation to the patentee. Even should the Government tools, materials, and labor be used in perfecting the invention, in cases where the object for which the inventor is employed is not such as to make it his duty to devise improvements, if it be in his power to do so, the fact that the public has contributed to the invention should not be a bar to the right of the inventor to recover compensation from the Government, if it makes use of his invention. It may and should be considered in determining the amount of compensation equitably due to him for the use.

"But when any person is employed for the express purpose of making experiments with a view to the discovery of improvements in the construction or manufacture of military material, and is paid for his time, and supplied with tools, machinery, materials, and labor, so that the whole expense of the experiments from which the invention results is borne by the Government, the invention, in the judgment of the court, although under our patent laws it is the legal property of the inventor, belongs, equitably, to the Government, at least to the extent that the Government should have the right to use it without further compensation to the inventor. In such case the inventor, in devising his improvement, has done only that which he was expressly employed to do, only that which he was paid by the Government to do for its benefit."

Mr. Allin was, at the time he made this invention, the master armorer of the Springfield Armory. He was not "employed for the express purpose of making experiments with a view to the discovery of improvements in the construction and manufacture" of the Springfield rifle, but he did make this invention while in the employ of the Government and receiving its pay, and licensed the United States to make free use of patent granted to him. While he has no legal claim on the United States for compensation, in equity his heirs are entitled to some remuneration.

In my opinion 10 cents per gun containing his improvement would be a fair and reasonable compensation for the invention.

Of course this office does not pretend to decide on the validity of the patent, although the validity of the "locking device" used by the United States invented by Mr. Allin has never been questioned, as far as this office is aware.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

Whereas Erskine S. Allin, in the county of Hampden and State of Massachusetts, has invented certain new and useful improvements in breech-loading fire-arms; and

Whereas the United States has aided in developing, perfecting, and applying to practical use the said improvement by furnishing to said Allin, at the United States Armory in Springfield, Mass., the labor, material, and other requisites to that end:

Now be it known that, for and in consideration of the aid aforesaid, and $1 received by me, the said Allin, I have granted, bargained, and sold, and by these presents do grant, bargain, and sell and assign to the United States of America, the right to manufacture the said improvement in all the armories and arsenals of the United States, and the right to use said improvement so manufactured everywhere, together with the right, title, and interest that I have, or may have, to said improvement under any letters patent dated December 19, 1865, or any renewal or extension thereof

that have been or may be granted therefor to the extent of the grant and license aforesaid to manufacture and use said improvement.

In testimony whereof I have hereunto set my hand and seal this 30th day of October, 1867.

[SEAL.] E. S. ALLIN.

Witnesses:
FRANK R. YOUNG.
WILLIAM H. BRADBURY.

The date December 19, 1865, interpolated on 18th line, was by my consent.
E. S. ALLIN.

HAMPDEN, *ss:*

SPRINGFIELD, *October* 30, 1867.

The foregoing named E. S. Allin personally appeared and acknowledged the foregoing instrument, by him subscribed, to be his free act and deed.

Before me,

W. G. CHAMBERLAIN,
Justice of the Peace.

Official copy of copy of armory records.

A. R. BUFFINGTON,
Lieutenant-Colonel of Ordnance.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 824.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 356.]

The Committee on Pensions, to whom was referred the bill (S. 356) granting a pension to Samuel Hanson, submit the following report:

This soldier enlisted January 16, 1864, in Company D, Thirty-third Regiment Iowa Volunteers, and was mustered out with his company August 15, 1865. In 1870 he applied for a pension, alleging disability from lung disease; that in March, 1864, at Little Rock, Ark., he was attacked with lung fever from exposure while in service, which seriously affected his lungs and from which he never recovered. The Adjutant-General's report shows that he was left sick at Little Rock March 23, 1864. The Surgeon-General's report shows that he was admitted to general hospital at Little Rock March 22, 1864, for treatment for "pleuro-pneumonia," and returned to duty April 11, 1864.

The claim was rejected by the Commissioner of Pensions on the ground that claimant was disabled by the disease for which he claims a pension at the time of his enlistment. An appeal was taken to the Secretary of the Interior, and the action of the Commissioner of Pensions was sustained. The case was reopened and examined a second time with the same result. No additional evidence has been filed since the review of the case by the Secretary of the Interior. The claim was rejected chiefly upon the evidence taken by a special pension agent, which is somewhat conflicting.

There seems to be no doubt, from the evidence on file, that the claimant was not a strong, healthy man when he enlisted, but had been subject to lung trouble before that time, and that while in the service he had acute attacks of inflammation of the lungs, which have continued to occur from time to time since his discharge, although Dr. Huntsman says, in an affidavit dated in 1872, that after a careful examination of the claimant he did not find that he was suffering from any disability as a result of disease or injury received in the service, but adds that the claimant is constitutionally a man of consumptive habit.

There appears to be no doubt that the claimant is suffering from pulmonary disease, which may have been aggravated by his service in the Army.

Your committee, in view of all the facts, recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 825.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2266.]

The Committee on Claims, to whom, at the first session of the Forty-eighth Congress, was referred the bill (S. 335), referring the claim of John Williams to the Court of Claims, herewith present the following report:

This bill was referred to the Court of Claims under the act of March 3, 1883 (22 Stat. L., 485), commonly called the Bowman act.

This statute only authorizes the court to find the facts and "report the same to the Committee or the House by which the case was transmitted for its consideration." The Court of Claims did not make its report to the Senate Committee on Claims of the last Congress, but to the committee of the present Congress.

The finding of the facts by the court, as reported to the Committee on Claims, may be found in the appendix to this report.

It appears, in brief, by the finding of the court, that the claimant was a servant of a coal merchant of San Francisco, Cal., and was directed by his employer to deliver certain bags of coal to the examining room of the appraisers, located on the second floor of the United States appraisers' building in San Francisco; that on reaching the building of the appraisers' office he inquired of the superintendent of laborers (whom the committee understand to be a United States official) where he should put the coal; that the superintendent directed him to take it to the appraisers' office, and to put it upon the elevator and to take it to the office in that way; that the load which claimant put upon the elevator was the usual load; that the elevator was started by the United States engineer in charge; that it fell; that the fall of the elevator was due to the untying of the rope binding down the rope supporting the elevator; that the elevator was a temporary one, not provided with ordinary safeguards; that the rope was not regularly examined; had it been examined the defect which produced the accident would have been detected; that the fall of the elevator was caused by the defect in the knot or rope, which could have been discovered by the men in charge of the elevator by the use of reasonable care, and that the claimant was without fault in getting on the elevator and while he was on it before the accident.

It further appears by the finding of the court that in consequence of the accident the claimant lost his labor for eight months; that he had been receiving $60 per month, which would make his loss $480; that he was obliged to engage the service of a nurse for five and one-half

months, at $50 a month, amounting to $275, which he has paid, or is liable to pay; and that he claims $500 for medical attendance, but that it does not appear what amount he has paid or is liable to pay.

It further appears that although he is now engaged in the same kind of employment, and receiving the same wages, he is not as strong and well as before the accident, and cannot perform as much labor.

Your committee are of the opinion that this accident was caused by the carelessness and want of reasonable attention on the part of the United States officials in charge of the appraisers, building and the elevator; that it was by the direction of the superintendent the claimant entered upon it, and that the claimant was in no fault.

The committee recognize the rule that the Government is not legally responsible for the laches of its officers or agents. Prior to the organization of the Court of Claims in 1856 all claims against the Government had to be passed upon by Congress, and a claimant had no other means of redress. As ordinarily understood, a claimant had no legal right against the Government. He could not sue the Government, and no court had jurisdiction of any claim against the Government or any authority to hear or render judgment in favor of any claimant against it. None of its property could be taken by a claimant to satisfy his demand, no matter how just it might be. In fact, that is so now. Up to the organization of that court Congress had reserved to itself the entire jurisdiction of all claims against the Government, whether arising from tort or from contract.

By the law constituting that court it gave to the Court of Claims jurisdiction to hear and determine, (1) all claims founded upon any law of Congress or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, and all claims which may be referred to it by either House of Congress; (2) all set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever, on the part of the Government of the United States against any person making claim against the Government in said court; (3) the claim of any paymaster. quartermaster, commissary of subsistence, or other disbursing officer of the United States, or his administrators or executors, for relief from responsibility on account of capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, or papers in his charge, and for which such officer was and is held responsible; (4) and, by subsequent acts, of all claims for the proceeds of captured and abandoned property, as provided by the act of March 12, 1863, chapter 120, or by the act of July 2, 1864, chapter 225, being an act in addition thereto.

But even under the law establishing this court it has no authority to do anything more than to find the amount due, and to certify the same to Congress. It can issue no process to enable the claimant to secure payment of the amount it finds due.

It will be seen that all claims against the Government for tort arising from the carelessness and laches of its officials and agents stand just as they did before the Court of Claims was established, and are to be decided by Congress according to their merits, and the view Congress may take of the justice and equity of each case; and this point was formally decided by the Supreme Court of the United States in Nichols *v.* United States, 8 Wall., 123.

The court say in this case, page 275:

These reflections admonish us to be cautious that we do not permit the decisions of his court to become authority for the righting in the Court of Claims of all wrongs

done to individuals by the officers of the General Government, though they may have been committed while serving that Government, and in the belief that it was for its interest. *In such cases, when it is proper for the nation to furnish a remedy, Congress has wisely reserved the matter for its own determination.* It certainly has not conferred it on the Court of Claims.

It would seem from this that it was not the opinion of the Supreme Court of the United States that Congress cannot grant relief to an individual arising from the tortious act of a Government official, either by general or special legislation, but on the other hand that the right of giving a remedy to an injured citizen exists in Congress.

It certainly has always been so understood and practiced from the earliest history of our Government.

As the negligence is found by the Court of Claims to be all on the side of the Government, the claimant would be clearly entitled to recover were his contest with a private citizen or corporation. The question is therefore presented whether his right is affected by the fact that the offending party is the Government.

The non-existence of a judicial remedy does not affect the right. The existence of a right as against the Government in cases of tort is fully recognized by that distinguished jurist, Judge Cooley, who, in his work on Torts, says (page 122):

Even the State or General Government may be guilty of individual wrongs, for while each is a sovereign it is a corporation also, and as such is capable of doing wrongful acts. *The difficulty here is with the remedy, not with the right.* No sovereignty is subject to suits, except with its own consent. But either this consent is given by general law, or some tribunal is established with power to hear all just claims; or, if neither of these is done, the tort remains, and it is always to be presumed that the legislative authority will make the proper provision for redress when its attention is directed to the injury.

The rule that the Government is not liable for the laches of its agents is a legal one, and one that properly may be applied in courts of law, but that, notwithstanding this legal rule, it has always been understood that Congress was an equitable tribunal, having full jurisdiction and authority to grant relief to an injured citizen, who, without fault, had received an injury by the carelessness of a Government agent. Of course, relief is not to be granted unless the claim is entirely meritorious, the claimant without fault, and the injury caused by the carelessness of the public agent, and in a matter connected with the discharge of a duty which he is performing. The Government ought not to be held liable for the willful or criminal act of its agent.

The committee, then, are of the opinion that the rule, as applied in courts of law, that the Government is not liable for the laches of its agents, does not bind, and ought not to, the action of Congress. This claimant is found to be without fault, and the damage to him was occasioned by the gross carelessness and negligence of the United States officers, the superintendent directing him to use the elevator, which was unsafe, and which any proper inspection would have shown him that it was.

It is believed that there is not a court of law in the country, State or Federal, that would not hold a corporation or an individual responsible to the claimant upon the facts here found. The equities in the claimant's favor could hardly be stronger. The committee think that the Government should be responsible, and that the measure of damages should be $1,000 in full for all claim.

The committee adhere to the opinion they have often expressed, that the United States ought not to be held responsible for the mistakes, negligence, or wanton misconduct of officials who are exercising the

functions of Government aids as judges, district attorneys, consuls, marshals, and the like.

Liability to such damage is incident to all human society. Against it no Government administered by human instrumentalities can save the citizen. But where the Government is engaged in transacting some business for the public advantage, such as transporting mails, navigating ships, occupying or constructing buildings, and its servants, by their negligence, cause injuries for which a private master would in like case be held responsible, we think there should be a remedy. If the claimant had been hurt by a United States mail wagon, or his ship destroyed by a collision at sea with a national vessel the Government would in conformity with its power held heretofore afford an indemnity.

We think this is a case similar.

By section 7 of the act of March 3, 1883, it is provided—

> That the reports of the Court of Claims to Congress under this act, if not finally acted upon during the session at which they are reported, shall be continued from session to session and from Congress to Congress, until the same shall be finally acted upon.

The committee therefore report the accompanying bill and recommend its passage.

APPENDIX.

[In the Court of Claims. Term 1884–'85. John Williams *v.* The United States. Congressional case No. 6.]

At a Court of Claims held in the city of Washington, on the 2d day of March, 1885 the court filed findings of fact in the cause aforesaid, and it was ordered that a copy be certified to the Committee on Claims of the Senate of the United States.

[L. S.] BY THE COURT.

FINDINGS OF FACT.

This case, referred to the court by the Committee on Claims of the Senate, January 18, 1884, under the act of March 3, 1883, ch. 116 (22 Stat. L., 485), having been heard by the court, the Attorney-General, by his assistants, appearing for the defense and protection of the United States, as required by said act, the court, upon the evidence, finds the facts to be as follows:

I.

The claimant, who was in the employ of Arthur M. Ebbetts, a coal merchant of San Francisco, Cal., as a driver of a coal-cart, was, on the 2d day of December, 1880, sent by his employer to deliver certain bags of coal to the examining-room of the appraisers' office, located on the second floor of the United States appraisers' building in San Francisco. The coal was to be taken by the elevator to the examining-room, which was the usual mode of delivering coal.

II.

On his arrival at the building he unloaded the bags of coal, ten in number, weighing 100 pounds each, onto a hand-truck, ran a part of the same on an elevator, which had been put up for temporary use, running from the first to the second stories of the building, and started up with this load to the second floor. As the elevator reached the second floor the rope supporting it became untied and it gave way, precipitating the claimant and the load a distance of 16 feet, the claimant receiving severe injuries in the lumbar region, the spine, and about the temple.

III.

When the claimant reached the building of the appraisers' office he inquired of the superintendent of laborers where he should put the coal. The superintendent, after being informed by claimant that it was for the appraisers' office, said it must go upstairs. Claimant inquired whether he could take it up on the elevator. Superintendent requested the engineer to put on steam. He then directed claimant to put

the coal on the elevator, and requested him at the same time to be expeditious, as the men were leaving the building, it being about the time of closing. Superintendent proposed to go up with the first load, so as to give claimant time to load the balance. Claimant first consented that he might do so, but then said he better not go, for the reason that he would get soiled in unloading the coal, and the superintendent consented to that arrangement.

IV.

In consequence of said injuries claimant was unable to resume his former occupation until the 17th day of August, 1881, at which date he re-entered the employ of Mr. Ebbetts at the same pay he had been receiving, to wit, $60 per month. He was paid by Mr. Ebbetts up to December 18, 1880, making a loss of wages for eight months, at $60 per month, $480.

V.

Claimant was also compelled to hire a person to attend him during his sickness, and he agreed to pay said attendant at the rate of $50 per month for five and a half months, $275, of which he has paid $100.

VI.

Claimant was also put to the expense of medical attendance, which he estimates at $500, but has not satisfactorily proven what amount he has paid or agreed to pay.

VII.

To all appearances the claimant has recovered; but by medical examination, while no special lesion can be traced to the accident, in the opinion of the physician, the general effect of the accident has been to cause a deterioration of his general health and strength.

The claimant, however, now performs substantially the same labor he did before the accident, and receives the same wages; but he cannot do the same amount of labor without inconvenience and pain.

VIII.

A medical examination on the 24th of April, 1884, established the fact that the claimant is not as strong as he would have been but for the accident; that there is a deterioration of his health and strength which may be permanent; that he may never be as strong as he was before the accident, or able to do the same amount of work.

IX.

The load which the claimant put on the elevator was the usual load. The elevator was started by the United States engineer in charge. The fall of the elevator was due to the untying of a cord binding down the rope supporting the elevator. The elevator was a temporary one, not provided with ordinary safeguards. The rope was not regularly examined. Had it been examined the defect which produced the accident could have been detected.

The fall of the elevator was the result of the defect in the knot or rope which could have been discovered by the men in charge of the elevator by the exercise of reasonable care.

The claimant was without fault in getting on the elevator, and while he was on it before the accident. There was a stairway from the first floor to the second, and no substantial obstacle in the way of claimant carrying the coal up the stairs.

BY THE COURT.

A true transcript of record.
Test this 10th day of March, 1885.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 826.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 309.]

The Committee on Claims, to whom was referred the bill (S. 309) to settle and adjust the claims of any State for expenses incurred by it in the defense of the United States, have considered the same, and respectfully report:

A letter from the Third Auditor of the Treasury Department, under date of January 20, 1885, to the Secretary of the Treasury states clearly the provisions of the bill, and recommends its passage.

We affix the letter for the information of the Senate. We think that the authority should not be conferred upon the Treasury to finally settle these accounts, but only to audit and report them to Congress. We recommend that the bill be amended by striking out in the third line all before the word "Treasury" and inserting "the Secretary of the"; by striking out in the fourth line the words "settle and adjust" and inserting the words "audit and report to Congress," and by striking out "they" in the fourth line and inserting "he."

TREASURY DEPARTMENT, *January* 22, 1885.

SIR: Referring to your indorsement of the 14th instant on the bill (H. R. 7919) to settle and adjust the claims of any State for expenses incurred by it in defense of the United States, for an expression of views thereon by this Department, I have the honor to inclose herewith copy of the report of the Third Auditor in the matter for your information.

Very respectfully,

H. McCULLOCH,
Secretary.

Hon. GEORGE W. GEDDES,
Chairman Committee on War Claims, House of Representatives.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 20, 1885.

SIR: I have the honor to acknowledge the receipt of inclosed bill, H. R. No. 7919, Forty-eighth Congress, second session, referred by Hon. George W. Geddes, chairman of the Committee on War Claims, to you on the 14th instant, and forwarded to this office on the 17th instant for report.

In reply, I would state that in my judgment this bill would provide for the allowance of that class of claims incurred by the States for services and expenses of commissioned officers and enlisted men who were commissioned or enlisted for the purpose

of aiding to suppress the late insurrection against the United States, whether t were mustered into or employed in the United States service or not.

Under the rules of the Treasury for the settlement of claims of States, under ac Congress approved July 27, 1861, all expenses incurred on account of commissio officers or enlisted men, unless they were actually mustered or employed in the Uni States service, have been disallowed as not having been provided for in said act.

The States, in raising volunteers called for by the President or Secretary of W incurred expenses on account of officers and enlisted men, who, from various cau either from death, disability, or consolidation of regiments, failed to muster into United States service.

Such expenses as the United States would have incurred had the Secretary of V raised the troops direct should be reimbursed to the States, and this bill provides the reimbursement of this class of claims.

In my judgment, the States should be reimbursed all expenses properly incur in raising their troops which the United States would have incurred if they had b raised directly under orders of the Secretary of War by officers of his own appoi ment.

The bill above referred to is herewith returned.

Very respectfully,

E. W. KEIGHTLEY,
Auditor

Hon. HUGH McCULLOCH,
Secretary of the Treasury.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 827.

IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1886.—Ordered to be printed.

Mr. PIKE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2265.]

The Committee on Claims, to whom was referred the bill (S. 1546) for the relief of Sarah E. E. Perine, widow and administratrix of the estate of William Perine, having considered the same, submit the following report:

This claim was before the Committee on Claims of the Senate of the last Congress and a favorable report made. The report is Senate Report No. 502, Forty-eighth Congress, first session.

This claim is of the same class as those of Nathaniel McKay and the executors of Donald McKay, recently considered by this committee and reported upon by Senator Hoar for the committee. The leading facts are in substance alike in the claim of Sarah E. E. Perine and those of the McKays, and reference is made to the said report of Senator Hoar. It is Senate Report No. 507, Forty-ninth Congress, first session.

The committee think the claim of Mrs. Perine should be sent to the Court of Claims, as the McKay claims were, and for that purpose report the accompanying bill as a substitute for the one submitted to the committee, and recommend its passage.

O

IN THE SENATE OF THE UNITED STATES.

MAY 19, 1886.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2265.]

The Committee on Claims, to whom was referred the bill (S. 1846) for the relief of Sarah E. E. Perine, widow and administratrix of the estate of William Perine, deceased, late of New York, having considered the same, submit the following report supplemental to, and to be considered in connection with, Senate Report No. 827, to accompany bill S. 2265:

This case resembles in its general features several cases in which relief has been granted by Congress after careful consideration and discussion.

This claim was before the Committee on Claims of the Senate of the last Congress, and a favorable report was made. (See Senate Report 205, Forty-eighth Congress, first session.)

Upon an examination of the evidence, documents, and reports which bear upon this case, we report the following facts:

(1) That the claimant, Sarah E. E. Perine, is the widow and administratrix of William Perine, deceased, late of New York City.

(2) That in 1863 said William Perine, being a ship-builder of long experience, and being the owner of a ship yard at the city of New York, entered into contracts with the United States for the construction of the light-draught monitor Naubuc, and the iron tug-boats Maria and Triana.

The contract for the construction of the Naubuc was made April 2, 1863, and she was to be completed October 2, 1863.

The contracts for the construction of the Maria and Triana were dated December 20, 1863. The Maria was to be completed July 20, 1864, and the Triana August 20, 1864.

(3) The contract price for the Naubuc was $395,000, and the contractor was to receive $4,500 per month for the completion of the vessel ahead of contract time, and was to forfeit $4,500 per month for delay in completing said vessel beyond the contract time.

The contract price of the Maria was $80,000, and the contractor was to receive $800 per month for the completion of the vessel ahead of contract time, and was to forfeit $800 per month for delay in completing said vessel beyond the contract time.

The contract price for the Triana was $128,000, and the contractor was to receive $1,280 per month for the completion of the vessel ahead of contract time, and was to forfeit $1,280 per month for delay in the completion of said vessel beyond the contract time.

Following is a copy of the contract for the construction of the Nau-

buc, which in all essential particulars is similar to the contracts for the construction of the Maria and Triana:

CONTRACT FOR IRON-CLAD STEAM BATTERY.

This contract, made and entered into at the city of New York, in the State of New York, the 2d day of April, 1863, between William Perine, of Brooklyn, E. D., in the State of New York, as principal, and William H. Hawthorne and John Friend, of Brooklyn, E. D., and William Lewis and George P. Wright, of New York City, and Samuel V. French, and William W. Davis as sureties, and John Lenthall, Chief of the Bureau of Construction and Repair, acting in the name of the Secretary of the Navy, for and in behalf of the United States of America, of the second part, witnesseth:

That in consideration of the payments hereinafter provided for, the party of the first part hereby contracts and agrees to construct one iron-clad steam battery, of iron and wood combined, of the following general dimensions, viz: 225 feet extreme length, 45 feet extreme breadth of beam, and 9½ feet total depth from top of deck to bottom of lower vessel, according to the general plans and specifications furnished, which will form a part of this contract, the working drawings to be made by the parties of the first part in conformity therewith, to the satisfaction of the superintendent.

The iron used in this vessel to be of the very best quality, and all to be full to the thicknesses.

The engines, boilers, and appurtenances to be of the dimensions and kinds expressed in the specifications furnished. The engines shall be condensed engines, without air-pumps. A distilling apparatus to be provided to supply the crew with potable water. The vessel and all the machinery to be built in a substantial manner, strong and durable in every detail, and every defect or breakage arising from imperfections in materials or workmanship for two months after trial trip shall be repaired at the expense of the party of the first part.

This battery to be completed and ready for service in six months from the second day of April, 1863, unless arrested by any contingency which human foresight could not arrest, and the work on her shall progress in proportion to the time stipulated for her completion.

And it is further agreed between the contracting parties that this battery shall be completely fitted and equipped in all respects for service, with the exception of the guns, fuel, ordnance stores, and nautical instruments, to the satisfaction of the party of the second part; and the party of the first part warrant and guarantee the work conforming in all respects to the specifications, drawings, &c., furnished, which constitute a part of this contract, and are to govern the parties hereby contracting as truly as if the same were incorporated in this instrument; nor is the omission therein of any detail or object necessary to carry into effect the intent of this agreement to be to the detriment of the United States.

All the materials and workmanship to be of the very best quality, and acceptable to the superintendent to be appointed on the part of the United States, who is hereby empowered to reject all or any portion of either in any stage of its progress, if, in his opinion, not of the quality above required; and the party of the first part will provide the superintendent and inspector suitable and convenient office room, and afford them satisfactory facilities for superintending the work.

For this battery so completed and delivered at the United States navy-yard, Brooklyn, within the six months stipulated, the party of the second part will pay to the party of the first part the sum of $395,000 in eight payments, in the following manner:

When there shall have been furnished by the party of the first part materials and work done to the amount of $49,375, and certified to by the superintendent on the part of the United States, the party of the second part agrees to pay the same to the said party of the first part, on bills properly approved therefor, deducting and reserving 25 per cent. from each and every payment until after a satisfactory test and acceptance of said vessel.

The party of the second part further agrees that, in addition to the prices to be paid for the vessel, there will be paid to the party of the first part the additional sum of $4,500 per month for each and every month that the vessel may be delivered completed previous to the time stipulated; and the parties of the first part do hereby agree that for every month's delay beyond the time named for the delivery of the vessel there shall be a deduction of $4,500 per month from the sum of 395,000 before named as to be paid.

It is further agreed and mutually understood that the last payment is not to be made until the vessel is delivered at the place appointed for the reception of the vessel by the Navy Department.

And it is understood between the contracting parties that after the vessel shall be ready for sea and be taken possession of by the Government, such possession shall be re-

garded as accepting the vessel so far only as the quality of materials and workmanship are concerned, and not to affect the claim of the party of the second part for damages in case of default or failure of the party of the first part in not complying with all the provisions of this contract, and that the test of the vessel, as provided, shall be made as soon thereafter as practicable, not to exceed sixty days, the reservation of 25 per cent. to be withheld until after the test shall have been made, and the payment thereof, or as much as may be due, shall be received by the parties of the first part in full consideration of the complete fulfillment of this contract.

In case of default of all or any of the foregoing covenants and stipulations, the party of the first part hereby bind themselves, their heirs, executors, administrators, and assigns by these presents to refund to the United States the amount of money advanced to them on said battery within thirty days after such failure shall have been declared by the party of the second part; and the party of the first part, in case of failure in any of the points before stipulated, hereby acknowledge themselves indebted to the United States in liquidated damages to the full amount of the money advanced as aforesaid. The vessel to remain in the possession of the party of the second part, after the first payment, until all advances shall have been refunded, in case of failure to fulfill the contract by the party of the first part.

It is further agreed that in case of failure or neglect on the part of the party of the first part to fulfill the stipulations of this contract and have the vessel delivered as above stipulated, that the Navy Department may at its option enter in and take possession of and direct purchases to be made of all the necessary materials, and cause the vessel to be completed and fully equipped as heretofore described; and any excess of cost will be at the expense of the said party of the first part, provided the delay has not been occasioned by the action of the Navy Department.

The party of the first part does further engage and contract that no member of Congress, officer of the Navy, or any person holding any office or appointment under the Navy Department shall be admitted to any share or part of this contract or agreement or to any benefit to arise thereupon. And it is hereby expressly provided, and this contract is upon this express condition, that if any such member of Congress, officer of the Navy, or other persons above named shall be admitted to any share or part of this contract, or to any benefit to arise under it, or in case the party of the first part shall in any respect fail to perform this contract on their part, the same may be, at the option of the United States, declared null and void without affecting their right to recover for default which may have occurred.

It is further agreed that the parties of the second part shall have the privilege of making alterations and additions to the plans and specifications at any time during the progress of the work as they may deem necessary and proper; and if said alterations and additions shall cause extra expense to the parties of the first part, they will pay for the same at fair and reasonable rates; and should such changes cause less work and expense to the parties by the first part, a corresponding reduction to be made from the contract price; and in such case the cost of the alterations to be determined when the changes are directed to be made.

It is further agreed that the Navy Department shall have a lien on the vessel and all the materials provided for the fulfillment of this contract for the money advanced or paid by the United States on account thereof; and the said parties of the first part agree that they will keep the vessel and materials, or as much of them as are exposed and liable to injury, insured against fire and flood to the amount which may be paid on account of this contract until delivered to the Navy Department, the policies being made payable to the United States.

It is further agreed by the parties of the first part, as required by the 14th section of the act of Congress approved July 17, 1862, that neither this contract nor any interest therein shall be transferred to any other party or parties; and that any such transfer shall cause the annulment of the contract, as far as the United States are concerned; and that all rights of action are hereby reserved to the United States for any breach of this contract by the said parties of the first part.

The payments shall be made to the said parties of the first part, or to their order, by the Navy agent at ——— in the manner and to the extent provided, on bills in triplicate, duly certified and approved by the proper persons within ten days after the warrants for the same shall have been passed by the Secretary of the Treasury.

WM. PERINE, [L. S.]
WM. H. HAWTHORNE, [L. S.]
JOHN FRIEND, [L. S.]
WM. LEWIS, [L. S.]
GEO. P. WRIGHT, [L. S.]
SAM'L V. FRENCH, [L. S.]
WM. W. DAVIS, [L. S.]
Sureties.

Signed, sealed, and delivered in presence of—
A. H. RING.
C. R. ALTON.

I certify that I have made due and personal inquiry as to the ability of the sureties in this contract, and am satisfied that they are good and sufficient for the purposes herein named.

J. HENDERSON,
Navy Agent.

(4) The Naubuc was finished February 6, 1865, sixteen months and four days after the date fixed in the contract for her completion.

The Maria was finished October 2, 1865, fourteen months and twelve days after the date fixed in the contract for her completion.

And the Triana was finished November 8, 1865, fourteen months and nineteen days after the date fixed in the contract for her completion.

No penalty was exacted by the Government from the contractor for and on account of the delay in the completion of either of said vessels beyond the time fixed in the contracts. And the Government never claimed that the contractor was guilty of any fault; upon the contrary, it has at all times been recognized that the delay in the completion of said vessels was caused by the action of the Government.

(5) It is known that at the time these contracts were entered into the art of constructing iron vessels was in its infancy. The Government reserved unlimited power to change its plans. Each naval battle brought new light and valuable experience to the officers in charge of the construction of this class of war vessels.

Soon after Mr. Perine entered upon the work of constructing these vessels, the Navy Department, which had prepared all the plans, specifications, and working drawings for the same, commenced ordering radical changes and alterations in their construction. The making of these changes by the contractor as required by the Navy Department involved him in great delay. In June, 1864, the light-draught monitor Chimo was launched, when it was discovered that a serious miscalculation of weight had been made in the construction of this class of vessels, and that by reason of the alterations ordered by the Navy Department in increasing the weight of the material used in their construction, the hulls were overloaded, so that the vessels would not float, whereupon the Navy Department required Mr. Perine to stop work upon said vessels, and this suspension of work was continued by direction of the Department until late in September, 1864. During this period of delay the Navy Department prepared new plans, and when work was resumed Mr. Perine was required to convert the Naubuc from a light-draught monitor into a torpedo-boat.

(6) After the expiration of the time specified in the contracts for the completion of said vessels, the prices of the labor and material necessary to be used in their construction rose in the markets of the country in consequence of the civil war then raging, and of the condition of the currency, and this rise in prices greatly increased the cost and expense to said William Perine in constructing said vessels over what it would have been if the vessels had been finished within the times specified in the contracts. The circumstances under which iron vessels were constructed during this period, and the reasons for the delay in their completion, because of numerous changes in the plans which contractors were from time to time required to make, will be better understood from the following quotations made from the testimony of Chief Engineer Stimers, taken in the McCord case:

This officer had been sent to make observations as to the conduct of Ericsson's monitors in battle off Charleston Harbor; he had returned, and a consultation was had at the Navy Department. His testimony in this regard, and the comments of the committee thereon may be

found in Senate Report No. 507, Forty-ninth Congress, first session, from which the following quotation is made:

Mr. Stimers said that—

"The matter was discussed as to whether we had better build our vessels in strict accordance with the letter of the contracts which we were giving out, without any change whatever, or had better take advantage of every such fight and make improvements as we went along, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an extra cost of a million of dollars for each battle where the monitors were engaged.

"Well, it was decided that that course should be followed. The contracts for the light-draught monitors, of which the Etlah was one, had already been drawn, specifications, general drawings, &c., of the original plans, but we went immediately to work to make changes on them in accordance with what I have already explained as the policy to be pursued. You will understand, therefore, why it was that I should send constant instruction to Mr. McCord, directing him to make his vessel different from what he had contracted to do; why I sent him drawings that differed from those specified in the contract. You will find, too, that these might be very material, as they certainly were. The acts, therefore, which I performed, which affected Mr. McCord and affect this case, were to direct him to make a different vessel from the one he contracted to do."

Acting upon this theory, the Department commenced forwarding to the contractors orders for changes and drawings before even the keel was laid, and those changes which in the aggregate affected all parts of the vessel, making in the end almost entirely different vessels, were continued, and the drawings furnished therefor for nearly a year and a half after the time specified in the contract for their completion had elapsed, and from the 23d of June, 1864, for about the period of three months, work was suspended altogether upon these vessels, by the orders of the Navy Department, which had then in contemplation some general changes in their construction which required time to perfect. All of this time, however, the contractors were under heavy expenses for the maintenance of the yards and men, whom they dared not discharge for fear of inability to supply their places, and not knowing on what day their services would be required.

In addition to all this, the prices of labor and materials required for the work, and for which the contractors had made provision during the time of the contracts, rapidly advanced, so that, as found by the Committee on War Claims of the first session of the Forty-third Congress, iron, that at the date of the contracts was worth $65 per ton, advanced during the prolonged time to $220 per ton, and labor from $2.50 per day to $4 per day.

This committee have not, however, considered it necessary to investigate the details as to amounts or percentage of such increase of prices, but are convinced that the cost of the work was greatly enhanced by reason of the delay caused by the course adopted by the Government in these changes and alterations from the original plans.

Chief Engineer Stimers, in his evidence in McCord's case, states the case as understood by him and presumably by the Department, which had no authority to adjust claims for damages, as follows:

"Before expressing an opinion on the matter as an expert, I must explain that the principles upon which the contractors of this, and the contractors of similar vessels, were to be paid were settled upon before I left the office, and I have always understood that these principles were adhered to, and they were as follows: That we should pay for the contract work by making the contract payments, or the payments provided for in the contract; that we should pay for alterations and changes a proper sum as might be agreed upon between the Government and the contractors at current rates. Now, that being the case, I consider that the Government is still indebted to the contractors of the Etlah, because, although the original contract work has been paid for as originally agreed upon, and the extra work may have been paid for *per se*, the fact of calling upon the contractor to make the changes on his vessel, and his compliance with those demands, delayed him in the execution of the original contract work. This delay compelled him to pay the increased rates for labor and material which obtained at the time when the work was actually performed; and although the contractor took the risk of a rise in prices when he signed his contract, it was only for a risk during the period of his contract, or the period he would have required to perform the work if the Government had not delayed him by their direct interference; now, whatever increase there was in the cost of the original work contemplated by the contract, due to the delay caused by the Government, that increase is now due, as there has been no pretense on the part of the officers of the Government to have paid it. If you will determine the increased cost of material and labor of the original contract work during the extent of time when the contract delayed by an interference of the Government to execute it, you will have, in my judgment, the indebtedness of

the Government. There may be very large claims on account of extra work of whicl I know nothing."

There seems to be no question that but for the interference of the Government thes vessels would have been completed within the time specified in the contract; tha this contractor had the means and the ability to do so, and that the heavy losses sus tained by reason of the interference of the Government could not have been preventec by any reasonable prudence or foresight on his part, as the labor could not be antici pated, nor could he possibly know, from the frequent changes being made, the kind quantity, or, in the case of the iron plating, the thickness or size of the plates to b used.

The Navy Department paid William Perine the sum of $505,028.7 for the construction of the Naubuc and for altering and converting he into a torpedo-boat.

He was paid $80,000 for the Maria and $128,000 for the Triana, thos sums being the contract prices for those vessels.

No allowance was made in the settlement for any of said vessels fo the increased cost occasioned by the advance in the prices of labor an materials during the period of delay caused by the action of the Go ernment.

The accounts exhibited by William Perine of these expenditures, an the evidence of witnesses to verify the same, as shown in Senate Repo No. 45, Thirty-ninth Congress, first session, were as follows:

Cost in excess of amount received from the Government:

Naubuc	$54,843
Maria	44,745
Triana	53,842

The last receipt given in respect to the Naubuc, which is substar tially the same as those given in the other two cases, is in the followin form:

NAUBUC. PAYMENT ON ACCOUNT OF EXTRAS.

NEW YORK, *August* 18, 1865.

The U. S. Navy Department to William Perine, Dr.

[Appropriation for construction and repair.]

On account of work done to the light-draught monitor Naubuc, which is extra to the contract, dated April 2, 1863, being the full and final payment on all extras, and in full for all claims and demands for that work.. $12,722 7

Certified by Robert Douty, general inspector.
Approved:

F. H. GREGORY,
Rear Admiral, Superintendent.

August 21, 1865. Approved in triplicate. Payable by the Navy agent at New York
JOHN LENTHALL.

PAYMASTER'S OFFICE,
New York, December 23, 1865.

Received of J. C. Eldridge, paymaster, $12,722.74, in full of above bill.
$12,722.74.

WM. PERINE.

The statements of your committee in regard to the effect of the re ceipts given by Alexander Swift & Co., in Report No. 5, Forty-nintl Congress, first session, are applicable to this claim, and are quoted be low:

The only approach to a settlement which the claimants ever made was merely re ceiving the money proffered by the Government officers and giving a receipt for it The only receipt *in full* is the one above given, in which it is observable that nothin whatever is receipted for except work done "which is extra to the contract," &c This amount was not reached by negotiation and a settlement with the contractor

such as ordinarily occurs between man and man in the adjustment of important business transactions, but was an arbitrary amount arrived at by the officers and agents of one party to the contract without conference with the other party, and without the assent or agreement of the other party. Indeed, at the very time these receipts were given the claimants protested that they were entitled to a large sum outside and beyond the contract, for increased cost by reason of the admitted delays and deviations in the work caused by the Government. The Government's officers replied to this: "Very true; we grant you have a just claim of this character, but we cannot pay it; we have no authority to pay you for damages of this character. Apply to Congress or the Court of Claims for relief." These receipts were signed without any idea on the part of the Government or its officers on the one hand, and these claimants on the other, that a final settlement had been agreed upon, or that a full accord and satisfaction had been made. Your committee are clearly of opinion that the effect given to these receipts by the Court of Claims, although it may be technically legal, was wholly outside of and beyond the intention of the parties; was not contemplated by either party, nor in any just sense agreed to as a complete settlement or full satisfaction of the claims.

In this connection we desire to call attention to the uncontradicted testimony of Gustavus Ricker, taken for and on behalf of the Government, and filed as evidence in these cases, touching the understanding between the Government and the contractors at the time the receipts were given (Record No. 6327, Swift & Co. and Niles Works against the United States, p. 283), viz:

"All my receipts were alike so far as I recollect. The bills were uniformly made by the Navy Department, I think, and the receipts, all given by myself, were alike, so far as I know. There may have been a little difference in a word or two, but they were all substantially alike. I declined to give a receipt in full and final settlement of all the claims to the Government in New York in 1865, because I felt we had further claims, and Admiral Gregory ackowledged that we had, and stated that he would take them up very soon and have them settled, but he died."

Again, on page 289 the same witness testifies:

"When the bills were made up in New York, Mr. Hall, the bookkeeper for the Government, made them up, and wanted to make a bill in full and final settlement of all claims, and I stated that I could not sign such a bill as that. Admiral Gregory was there and heard it, and I stated to him that he knew we had claims upon the Government for additional material and labor and for the advance in the price of labor and material. He said that he considered we had, and that he hoped to take them up and have them properly adjusted in a very short time. He soon after died, and the claims have never been adjusted.

"Question. State whether it was intended at the time you signed those receipts submitted to you by the counsel for the United States, or any other receipt for the payment of money received by you for the contractors from the United States on account of the construction of these vessels, such receipts were to be in full of all claims against the United States.

"Answer. No, sir; we were then petitioning Congress for a settlement of these claims."

In many jurisdictions a receipt of this character is always open to explanation. No such extraordinary or technical effect attaches to a receipt whether given in full of all demands or not. A receipt ordinarily is *prima facie* evidence of the facts stated therein, but is always open to explanation and contradiction. Had this view of these receipts been taken by the Court of Claims, nothing could have prevented the claimants from recovering a considerable portion of this increased cost. The court, in the opinion, says:

"Undoubtedly, if the claimants had not accepted payment for the extra work and had brought their action, these things [that is, damages for the delay, alterations, suspensions, &c.] would have formed elements of damage when the court came to determine the amount of its judgment. But they cannot be set up separately, or regarded as anything more than a part of the cost of the things paid out. The things sued for are delay, insurance, rent, interest, and profits, things which enter into every business and form elements of cost in every article bought and sold. In ordinary cases they are rarely a subject of consideration, and they come to the surface here only because the magnitude of this case is such that they are in a measure tangible from their extraordinary dimensions.

* * * * * * *

"We are of opinion that they should have been included in the prices paid for the extra work."

But nobody ever pretended these items were included in the price paid for the extra work, and for which these receipts in full were given. Nobody pretends that these claimants have ever been compensated for the increased cost arising from suspensions and delays caused by the Government while they were engaged in building these vessels; and to recover payment therefor upon proof of the facts alleged, they ask for a

rehearing in the Court of Claims, and that the technical and extraordinary legal effect given to their receipts by that court should be modified so as to enable that court to try the cases upon their real merits.

It is believed to be an elementary principle of the law of contracts which has obtained in a majority of those jurisdictions wherein the common law prevails, that if one party to a contract forces delays upon the other party, whereby the latter is prevented from performing his contract within the time prescribed, then whatever damages may fairly be said to arise from and out of such delay, including damages resulting from advances in the cost of materials, price of labor, &c., are recoverable. The authorities are almost without number which can be cited from the books in support of this proposition. Among them are 11 C. Cls. R., 707, affirmed in 4 Otto, 214; 8 C. Cls. R., 319, 320; 43 Barbour R., p. 33.

It seems clear to your committee that William Perine did not consider that he was receiving his just and full dues for the construction of these vessels when he receipted for the last payments of money made on them by the Navy Department.

The Navy Department did not undertake to pay for the increased cost of these vessels, occasioned by the advance in the cost of labor and material during the period of construction, beyond the time limited for the completion of the vessels.

The subject of the increased cost of these vessels, in excess of the amount proposed to be paid by the Navy Department had been brought to the attention of Congress before these last receipts were given.

On March 9, 1865, the Senate passed the following resolution:

In the Senate of the United States, March 9, 1865.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session. None but those who have given satisfaction to the Department to be considered.

Under said resolution the Hon. Secretary of the Navy appointed a board, consisting of Commodore Thomas O. Selfridge, Chief Engineer Alex. Henderson, and Paymaster C. H. Eldridge, which convened at the Brooklyn navy-yard June 5, 1865, and continued in session for more than six months.

William Perine, coming under the terms of said resolution, presented his claim to said Board, with the vouchers and the evidence in support of it, and was allowed the following sums, to wit:

Light-draught monitor Naubuc	$36,533 44
Iron tug-boat Triana (hull and machinery)	52,472 81
Iron tug-boat Maria (hull and machinery)	43,586 98
Total	132,593 23

See Senate Ex. Doc. No. 18, first session, Thirty-ninth Congress.

On January 31, 1866, this report was referred to the Committee on Naval Affairs of the Senate, which committee on March 22, 1866, made a report thereon (No. 45, first session Thirty-ninth Congress), accompanying a bill for the payment of the awards thus made. In said report the committee say:

From June till December last the Board organized by the Secretary of the Navy, under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties, and therefore the committee report the accompanying bill.

At the very time William Perine received the last payment from the Navy Department and executed receipts in such form as was required of him, he was pressing before Congress a claim for $153,432.41, the amount claimed by him to have been expended on said vessels in excess of the amount received from the Government, and after the date of said receipts the Senate Committee on Naval Affairs, with all the facts fresh before it, in an able and exhaustive report recommended the passage of a bill for payment to William Perine of the amount of $132,593.23, based upon the report of the Selfridge Board (Senate Report 45, first session, Thirty-ninth Congress).

Your committee therefore are of the opinion that the receipts given by William Perine did not include, and were not intended to include, the increased cost of said vessels resulting from the delay occasioned by the action of the Government.

The questions involved in this claim would not have full consideration without an examination of the act of March 2, 1867, under which the Secretary of the Navy organized what is known as the "Marchand Board," and also an examination of the report of that Board. Your committee have given these matters consideration, and in respect to that subject quote from Senate Report No. 591, Forty-eighth Congress, first session, and adopt the same as applicable to this case, to wit:

In 1865 a board was appointed under a resolution of the Senate, called the Selfridge Board, which examined and reported upon numerous vessels. Their awards were not paid, but their discussion led to the passage of the act of March 2, 1867, directing the Secretary of the Navy to investigate the claims of all contractors for building vessels of iron, &c., and to ascertain the additional cost incurred by them by reason of any changes and alterations there, with the proviso:

"But no allowance for any advance in the price of labor or material shall be considered, unless such advance occurred during the prolonged time for completing the work made necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor." (14 Stat. L., 424.)

The Secretary of the Navy delegated the matter thus submitted to a Board, of which J. B. Marchand was chairman, and called the Marchand Board. This Board, perhaps for economic reasons, decided to confine their examination to the question of extra work, holding that the question of increased cost by reason of the delays caused by Government was one sounding in damages, and therefore beyond the jurisdiction of the Department, and not included within the act.

Claims were filed by these contractors, but reported as "not considered within the province of the Board" (Report contained in Vol. 10, Congressional Record, p. 1504), nor were the claimants permitted to appear before the Board on behalf of their claims.

In this connection we quote with approval the following paragraphs from the petition of the claimant:

In respect to the action of the so-called "Marchand Board," organized under the act of Congress March 2, 1867, I have only to say that it called no witnesses before it, sat with closed doors, allowed no appearance of claimants, either personally or by counsel, and its action in not allowing Mr. Perine anything upon his claim should not, in justice, be held as binding upon him.

The passage of the said act of March 2, 1867, by Congress was a full recognition of the fact that the settlements made by the Navy Department were not considered as final by the contractors, and the passage by Congress of bills of relief of parties whose claims had been rejected by said "Marchand Board," is conclusive proof that Congress did not consider the action of said Board as binding upon it.

The following-named cases rejected by the "Marchand Board" have been relieved by acts of Congress:

George C. Bestor, on the Shiloh, $125,000 (17 Stat. L., 733); Charles Whitney, on the Keokuk, $50,000 (17 Stat. L., 671); J. S. Underhill, same vessel, $23,310.75 (17 Stat. L., 691); Daniel S. Mershon, jr., on the Cemarron, $46,715.08 (18 Stat. L., 635); also a bill for the relief of Miles Greenwood (17 Stat. L., 764), which was referred to the Court of Claims, which gave him judgment for $76,000 on account of rise of price of labor and material in the construction of the Tippecanoe.

None of these claims, and no other claim presented either to the Selfridge Board or

to the Marchand Board, stand upon higher grounds of justice and equity than the claim of William Perine; none of these claims were more clearly established than this claim of Mr. Perine. Accepting the principle laid down by the resolution of the Senate for the action of the Selfridge Board, to wit, "To inquire into and determine how much the vessels * * * cost the contractor over and above the contract price and the allowance for extra work," as the true measure of relief to which Mr Perine was entitled, I respectfully submit that an examination of this claim will necessarily lead you to the conclusion that an appropriation of $132,593.23 awarded by the Selfridge Board is scanty relief.

In the opinion of your committee the report of the Marchand Board did not affect the claim of William Perine, and it should not be regarded as conclusive in this case any more than it has been in the cases above cited.

(7) From the evidence your committee have arrived at the following conclusions:

1. That William Perine in executing his contracts was placed under the military power and control of the Government, which he was required to obey, and did obey, in every material particular, and that every step of the work from beginning to end was required to proceed, and did proceed, under the order and direction of the Government. And that from the date of the first payment on each vessel until their completion the Government had possession of said vessels.

2. That the vessels were completed according to the requirements of the Government by the contractor, without any default of his, and were accepted; that the delays in the construction of these vessels were not the fault of the contractor, but were occasioned by the action of the Navy Department.

3. That more than a year's delay in their completion was forced upon the contractor by changes ordered by the Government, and which changes were not apt and reasonable, nor contemplated by the parties within the scope or sense of the original contract.

4. That as the necessary results of these delays the cost of the work and materials furnished by the contractor to the Government upon these vessels was largely augmented.

5. That the contractor's acquiescence in the orders for these changes and the giving of the receipts or vouchers to the Government for payments made upon and for said work, did not cover or include said increased cost, and were not designed or intended by either party to cut off or settle the claim for such increased cost, and in equity and good conscience ought not to have that effect.

6. That the changes ordered by the Government in these vessels were made from time to time as the experience of the war taught the officers in charge the necessity therefor, and were made wholly for the benefit of the Government.

Your committee further state that a number of other contractors engaged in building war vessels for the Government were subjected to similar increased expenditures and losses by reason of delays occasioned by the action of the Government, and this subject has been many times considered by Congress.

One of the awards made by the Selfridge Board has been paid by joint resolution of March 30, 1867, 15 Stats., 353, by which Donahue Ryan, and Secor were paid $179,000 for losses sustained by them in constructing the Camanche. Amount allowed by the board, $179,993.80

The claim of William Perine is similar to this and the other cases above cited, in which Congress has granted relief.

Your committee further report that from sworn statements of persons of high character and credibility it appears that at the time William

Perine entered into these contracts with the Government he was the owner of a ship-yard at New York City; that he was a ship-builder of great experience, and that he had sufficient capital for the conduct of his business.

When the Naubuc, Maria, and Triana were completed it was found that their increased cost beyond the amount received from the Government had absorbed his whole fortune, and he was entirely bankrupted by these losses.

Three years later he died, leaving his family as an inheritance only this claim against the Government.

In view of all the facts in this case, your committee recommend the passage of Senate bill 2265, for the relief of claimant.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 828.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. MAXEY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1942.]

The Committee on Indian Affairs, to which was referred the bill (S. 1942) for the relief of Hiatt & Co., respectfully submits the following report:

A careful examination of the testimony on file in this case abundantly shows that the report of the Committee on Indian Affairs of the House of Representatives at the present session on a bill having the same object in view as Senate bill 1942 is sustained by the facts, and is adopted, as follows:

On a full examination we find the facts in this case to be as follows: The claimants, Hiatt & Co., were duly licensed traders for the Osage tribe of Indians at the Osage Agency (Pahuska), Indian Territory, during the year 1878. The Indians being in very great destitution and suffering both for food and clothing, owing to the failure of Congress to make adequate appropriation for their support, as it had done for the two years next preceding—the reduction being $200,000—it is a fact well supported by evidence that nearly, if not quite, all the chiefs, councilors, governor, and headmen of the Osage tribe of Indians made a strong and pitiable appeal to said traders, backed up by Cyrus Beede, United States Indian agent for the Osage Indians at the time, to extend to them a credit of from $8 to $10 per capita, promising payment out of their next annuity, which was expected to be ample for the purpose; but instead of being $15 per capita, as expected, it was reduced to little over $3 per capita, so that the payment out of that was impossible. It is well supported by evidence that said traders were very careful in making such extended credit, having the advice and assistance of some of the chiefs, Governor Joe (a full-blood, though an educated man) and Paul Akin, United States interpreter, and the then Indian agent, Cyrus Beede, so that the goods and supplies might be fairly distributed to all the families and individuals of the tribe. Before the appropriations were adequate to the payment of the amount of the extended credit ($16,759.99) Cyrus Beede was superseded, and the claimants found that in consequence of a change of agents an appeal would have to be made to the Commissioner of Indian Affairs for its payment, and in the month of August, 1880, a most thorough and searching investigation was made of all the items composing such extended credit before the governor, chief, councilors, and headmen and head chiefs, acting as a business committee, together with Paul Akin, United States interpreter, and Mr. Gay, chief clerk of Hiatt & Co., who was present with the books and itemized accounts, and after a long and careful investigation the amount above stated was found to be due said firm, as fully appears by the petition for its payment out of their funds in the custody of the Government signed by the chiefs and headmen, which petition is as follows:

To the honorable Secretary of the Interior:

The undersigned, the governer, chief councilors, and head chiefs, constituting the business committee of the Osage tribe of Indians, respectfully ask that you pay to Hiatt & Co. the sum of $16,759.99 out of the money accruing to us by act of Congress approved June 16, 1880.

The above sum is the correct aggregate of accounts against our people for supplies furnished them, and which they have hitherto been unable to pay.

The accounts are correct, the supplies were needed and had, and as honest men we desire payment to be made as promptly as possible.

To that end we make this requisition upon you, and this shall be our receipt for the same.

JOSEPH PARD NE NO PARHE,
Governor of the Nation.
STRIKE AX (his x mark), *Chief.*
BIG CHIEF (his x mark).
BLACK DOG (his x mark).
HARD ROPE (his x mark).
N. H. CONNOR.

Interpreted fully and signed.

Explained in our presence, Osage Agency, Ind. T., August 17, 1880.

W. P. ADAIR.
THOS. R. GAY.
DANIEL TERDALL.

I hereby certify that I am entirely familiar with the character, origin, and amount of Hiatt & Co.'s claim of $16,759.99 against the Osages, payment of which has been asked by the governor and chiefs of the tribe. I advised giving the credit, and interpreted largely for the Indians when they traded; that I also interpreted and explained fully the order they have given for the payment.

Osage Agency, Ind. T., August 17, 1880.

PAUL AKIN.
United States Interpreter.

The evidence of the then agent in support of the claim is as follows:

OSKALOOSA, IOWA, *December* 1, 1885.

I certify on honor that I have examined the statement of J. M. Hiatt, of the late firm of Hiatt & Co., licensed traders at Osage Agency, Ind. T., and believe the same to be substantially correct.

I was United States Indian agent for the Osage Indians from the early part of the year 1876 to about the 20th of July, 1878. During a great portion of this time the Osages were in a peculiar state of destitution, owing to the failure of Congress to make adequate appropriation for their support, as it had done for the two years next preceding, the item of reduction being $200,000, and at times these Indians were reduced to hunger and altogether too near nakedness.

At times during my administration, on the *earnest* and *pitiable* appeal of almost every leading Indian of the tribe (and in accordance with my own judgment as necessary, based upon actual observation of their destitution), I encouraged the licensed traders to credit them to the extent of furnishing limited amounts of subsistence and clothing to relieve suffering, trusting the promises of the Indians to settle these accounts at times of annuity payments, knowing full well that the tribe had ample funds at the disposal of the Government (whenever the same could be made available) to meet all such liabilities without embarrassment.

The precise amount of credit given I am unable to state at this time without access to data not just now at hand.

That portion of this debt contracted during my administration I believe to be just, and that the same should be paid out of Osage funds, in accordance with the expressed wish of the tribe, all as I verily believe.

CYRUS BEEDE.

STATE OF IOWA,
Mahaska County, ss:

Subscribed and affirmed to before me this 3d day of December, 1885.

F. E. SMITH,
Clerk District Court, a Court of Record.

OSAGE AGENCY, IND. TER.,
August 20, 1880.

Hon. COMMISSIONER OF INDIAN AFFAIRS:

SIR: The governor of the Osages and a number of the chiefs have directed or petitioned the honorable Secretary of the Interior to pay a claim of $16,759.99, due to Hiatt & Co. from said tribe.

As chief of the half-breed band, and having a better knowledge, perhaps, of the origin and character of said claim than any other chief, I unite with them in earnestly ask-

ng that the claim be promptly paid, as requested. The Indians and others were led to believe that the payment of about $15 per head in January, 1878, would be continued at substantially that sum. In that belief I advised H. & Co. to give the Osages a credit for half the sum, knowing that it would greatly accommodate the Indians, and believing it would be entirely safe; but the consequent payment and later ones, instead of $15, have been but little over $3 per head. Their present needs absorbed this small sum at once, so there has been no time at which it was possible to pay a debt made in good faith, and of which they reaped the full benefit. Knowing their ability to pay their debts, and grateful for the accommodation, the honor and self-respect of the Osages is concerned in the quick and full discharge of the debt.

I have the honor to be your obedient servant,

SAMUEL BEIVNEW,
Head Chief of Half-breed Band.

Witness:
J. H. TISDALE.

It seems to the committee that, in view of all the circumstances, Hiatt & Co. were justified in granting credit, as set forth in the bill, to the Indians; that the account against the Indians was fairly stated, and was an honest account. In addition to the examination thereof hereinbefore set out, Mr. J. M. Hiatt's sworn statement on file shows its correctness (marked Exhibit A), as well as the affidavit of T. R. Gay, September 21, 1885 (marked Exhibit B), and by supplemental affidavit of December 3, 1885 (marked Exhibit C), and the affidavit of Fannie Mathes, September 2, 1885 (marked Exhibit D). Mr. Gay was bookkeeper of Hiatt & Co., and testifies that the account is just and correctly kept, and that every item was gone through by the committee which examined the account with the original book of accounts before them and was assented to. Mr. Hiatt shows why he is unable to produce the original book of accounts, and he is fortified by the affidavit of Mrs. Mathes. Mr. Hiatt's character for truth and veracity is fully established by Mr. Justice Miller, of the Supreme Court of the United States, and by Senator Wilson, of Iowa.

It will be observed that there is no dispute of the account by the Indians; on the contrary, they assert that it is just, and they desire it paid out of their funds.

In view of the whole case the committee recommends the passage of the bill, amended as reported.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 829.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. MAXEY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1375.]

The Committee on Indian Affairs, to which was referred the bill (S. 1375) for the relief of E. C. Chirouse, late United States Indian agent, after careful consideration, respectfully submits the following report:

In response to a communication from the chairman to the Secretary of the Interior, that officer writes as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 24, 1886.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, inclosing, with request for examination and report, Senate bill 1375 of the current session, "for the relief of E. C. Chirouse, late United States Indian agent."

The matter having been referred to the Commissioner of Indian Affairs, I transmit herewith, in reply, copy of his letter of 22d instant, together with copy of letter of 14th June, 1882, addressed by the late Commissioner of Indian Affairs to the chairman of the Committee of Indian Affairs of the Senate, noted therein, relating to the settlement of the accounts of Rev. E. C. Chirouse, &c.

In forwarding this communication, which favors the claim of Mr. Chirouse for relief, the Commissioner says: "As this office has not received any further information in regard to Agent Chirouse's accounts, it has nothing further to submit, nor any reason to change the views in reference to his claim for relief contained in said communication of June 14, 1882. I respectfully inclose a copy of it, trusting the same may be received as a sufficient report."

S. 1375 is herewith respectfully returned.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

The CHAIRMAN,
Committee on Indian Affairs, United States Senate.

The letter of the Commissioner of Indian Affairs therein referred to is as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March 23, 1886.

SIR: In compliance with the directions contained in your indorsement of 8th instant, referring to me, S. 1375, "A bill for the relief of E. C. Chirouse, late United States Indian agent," submitted by Hon. H. L. Dawes, chairman Senate Committee on Indian Affairs, under date of 6th instant, I have the honor to report that Agent Chirouse's case has previously been presented to Congress, and I believe fully reported upon by this office.

When, in 1884, H. R. 5855, a bill for the same purpose, was under consideration, it was referred to this office by Hon. Olin Wellborn, then chairman Committee on Indian Affairs, House of Representatives, for the views and suggestions of this Depart-

ment thereon, or any information it might have relative to the passage of the bill. In reply this office transmitted to Mr. Wellborn a copy of a communication addressed to Hon. H. L. Dawes, chairman Committee on Indian Affairs, United States Senate, dated June 14, 1882, with advice that said communication contained the best information that this office had in the matter, and also its views in regard to late Agent Chirouse's claims.

As the office has not received any further information in regard to Agent Chirouse's accounts, it has nothing further to submit, nor any reason to change the views in reference to his claim for relief contained in said communication of June 14, 1882. I respectfully inclose a copy of it, trusting the same may be received as a sufficient report.

Senator Dawes's letter of 6th instant, with the copy of S. 1375 inclosed, is herewith returned.

Respectfully,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

The letter of the Hon. H. Price, late Commissioner, called for in the above letter of Commissioner Atkins, is as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 14, 1882.

SIR: In reply to your communication of 9th instant and that of Hon. James H. Slater, of same date, received by reference of the honorable Secretary of the Interior, under date of 12th instant, in which information is requested relative to the accounts of Rev. E. C. Chirouse, late United States Indian agent, and that any suggestions by this Department be submitted which may seem called for in view of the petition of Agent Chirouse, now before the above committee, for relief for certain suspensions against him in the examination of his accounts as such agent by the accounting officers of the Treasury, you are informed that a copy of the final statement of this man's accounts, as prepared by the Treasury, and over which this Department would have only administrative power, is not available for its reference at present, so that the items it contains cannot be referred to in detail. The books here show a few small disallowances against Agent Chirouse, to correct clerical errors of his, which, of course, must stand and are not now under consideration. The suspensions against him still remaining on said books are almost entirely of a technical character, as his troubles arose mainly from his failure to comprehend his duties, and action was frequently taken by him without having first consulted the Department.

Although Agent Chirouse's manner of disbursing and accounting for public funds has been irregular and in some cases contrary to the statutes, this Department does not believe that any taint of fraud attaches to his official actions as Indian agent, but that the use (if Mr. Chirouse quotes the Treasury statement of his account correctly) of $8,006.58 miscellaneous funds, for the benefit of the Indians under his charge, in place of depositing the same to the credit of the United States; the expending of $493.13 in trying to suppress liquor traffic with his Indians, contrary to the statute which provides for the payment of legal expenses in a different manner; and using $393.80 to pay contingent expenses, and for transportation of Indian supplies, when he had no funds in his hands applicable to these purposes; though contrary to law, are believed to have been in each case of great benefit to the Indians, and in the end the Government suffered no less thereby.

In view of the foregoing, late Agent Chirouse's prayer for a modification of the law, so as to permit the Treasury Department to adjust and settle his accounts as affected by the three sums above mentioned upon principles of equity and justice, and to give him credit for all or such a part thereof as may be properly sustained by vouchers, and such as he can prove to have been disbursed in good faith, and as is believed to have inured to the benefit of the Indians and the Government, is favorably looked upon by this Department.

Herewith inclosed, the petition of late Agent Chirouse is returned.

Very respectfully,

H. PRICE,
Commissioner.

Hon. H. L. DAWES,
Chairman Committee on Indian Affairs, United States Senate.

In view of these official communications, the committee is of opinion that Mr. Chirouse is entitled to the relief asked, and reports back Senate bill 1375 and recommends that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 830.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. MAXEY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1376.]

The Committee on Indian Affairs, to which was referred the bill (S. 1376) for the relief of John F. Malo, respectfully submits the following report:

In response to a communication from the chairman, the Acting Secretary of the Interior writes as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 19, 1886.

SIR: I have the honor to acknowledge the receipt of your note of 6th instant, referring, with request for examination and report, Senate bill No. 1376, "for the relief of John F. Malo," which contemplates the payment, out of the unexpended balance of appropriations for Indian schools for 1885, or prior years, to Rev. John F. Malo $1,000, for services rendered and expenditures incurred by him in maintaining an Indian boys' and girls' school among the Turtle Mountain Chippewas of Dakota, from September 20, 1882, to December 1, 1883.

The subject having been referred to the Commissioner of Indian Affairs, I transmit in reply a copy of his letter of 18th instant, with accompanying papers noted therein.

The late Commissioner of Indian Affairs urged an appropriation for the payment of this claim, in which Mr. Secretary Teller concurred.

The Commissioner of Indian Affairs expresses the opinion that the claim is a just one, and recommends the passage of the bill, in which recommendation this Department concurs.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The CHAIRMAN *Committee on Indian Affairs, United States Senate.*

This communication was accompanied by the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 18, 1886.

SIR: By your reference of the 8th instant, I am in receipt of a letter from Hon. H. L. Dawes, chairman of the Committee on Indian Affairs, United States Senate, requesting a report on Senate bill (S. 1376) for relief of John F. Malo, for services rendered and expenditures incurred by him in maintaining an Indian boys' and girls' school among the Turtle Mountain Chippewas of Dakota, from September 20, 1882, to December 1, 1883, amounting to $1,000.

In reply I have the honor to state that the claim in favor of J. F. Malo was allowed by this office on December 27, 1883, under authority of the Department of December 22, 1883, and for your information and that of the Senate committee I inclose herewith copies of the voucher and authority upon which the settlement was made, and also Ex. Doc. No. 240, House of Representatives, Forty-eighth Congress, second ses-

sion, containing letter from this office dated June 10, 1884, giving history of the claim and reasons why it was not allowed by the accounting officer. I think the claim a just one and recommend its passage.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

The United States, to Rev. John F. Malo, Dr.

For conducting a day school among the Turtle Mountain Chippewa Indians, in Dakota, from September 20, 1882, to December 1, 1883, say fourteen months, with an average attendance of thirty-five boys and thirty-five girls. $1,0[illegible]

WASHINGTON, D. C., *December* 21, 1883.

I, John F. Malo, of Turtle Mountain, Dakota, do swear that I have conducted t[illegible] school referred to in the above account during the period therein mentioned; that t[illegible] average attendance therein named is correct; that the charge for conducting t[illegible] school is, I believe, reasonable and just, and that no part of said account has e[illegible] been paid by said Indians or by the United States.

JOHN F. MALO, *M. P.*

Subscribed and sworn to before me this 21st day of December, A. D. 1883.
[SEAL.] CHARLES S. DRURY,
Notary Public for District of Columbia.

THE BUREAU OF CATHOLIC INDIAN MISSIONS,
Washington, D. C., December 21, 1883.

We certify that the records of this Bureau show that the school named in the abov account was conducted by said Rev. J. F. Malo, at his own expense, during the tim therein named, and that the average attendance named is correct; and that, in ou opinion, the charge made is reasonable and just.

I. B. A. BROUILLET,
Director.
CHAS. S. LUSK,
Secretary.

Official copy.
Settled December 27, 1883.

_____,
Chief Finance Division.

DEPARTMENT OF THE INTERIOR,
Washington, December 22, 1883.

SIR: In compliance with the recommendation contained in your communication [illegible] 21st instant, authority is hereby granted for the settlement of account in favor [illegible] Rev. John F. Malo, in the sum of $1,000, for conducting a day school on the Turt[illegible] Mountain Chippewa Reservation in Dakota, from September 20, 1882, to Decembe[illegible] 1, 1883; payable from funds applicable thereto.

The account is herewith returned.

Very respectfully,

H. M. TELLER,
Secretary.

Official copy.

_____
Chief of Finance Division.

The COMMISSIONER OF INDIAN AFFAIRS.

The committee is fully satisfied that the claim set forth in the bill [illegible] just and reasonable, wherefore the committee recommends that said b[illegible] do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 831.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2046.]

The Committee on Pensions, to whom was referred the bill (S. 2046) granting a pension to Elizabeth Marshall, have examined the same, and report:

The claimant, Elizabeth Marshall, is the widow or Dusten Marshall, late a sergeant of Company C, and lieutenant of Company A, Third New Hampshire Volunteers. She applied for a pension at the Pension Bureau, but the application was rejected "on the ground that the fatal disease of soldier cannot be accepted as a sequence of any disability contracted in the service."

The evidence in this case is very voluminous and somewhat conflicting, but yet your committee are of opinion, after a careful review of the same, that the widow has the balance of probabilities in her favor, and being disposed to resolve such doubts as we may have in favor of the presumption that this soldier's death was in some degree attributable to the service, in connection with the further fact that the widow is very poor and has an aged mother to support, we report back the bill, and recommend that it do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 832.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1181.]

The Committee on Pensions, to whom was referred the bill (S. 1181) granting a pension to Margaret E. Pierce, have examined the same, and report:

The claimant, Margaret E. Pierce, is the widow of Henry H. Pierce' late of the Twenty-first Regiment United States Infantry. She was pensioned, on account of the death of her husband, at the rate of $17 per month, beginning October 3, 1883, with an additional sum of $2 per month for each of three minor children. She now asks that this be increased to the rate allowed the widows of officers of the rank of major, on the ground that such was the real rank of said soldier.

The accompanying petition is presented in support of this claim; and after a review of all the evidence in the case, your committee report back the bill, and recommend that it do pass.

Petition of Mrs. Margaret E. Pierce for increase of pension.

My husband, Henry Hubbard Pierce, was, during the entire war, a member of the First Connecticut Artillery. He entered a stripling of a boy as private soldier, and rose to the full rank of major of one of the best regiments in the service.

During continuous service of four years and five months he was three times brevetted. The first time was for "gallant and meritorious service in action at Petersburg mine," where he commanded a battery of 10 10-inch mortars, and where he was without intermission engaged from 4.45 a. m. till 10.30 p. m., and used for the first time the expedient of putting 30 12-pound canister shot under the bursting charge of the 10-inch shells, which proved of great utility, keeping quiet the most dreaded flanking batteries of the enemy's line. (Page 49, Adjutant-General's Report.)

Another brevet was for "conspicuous gallantry," a very distinguished and distinguishing compliment, given to only ten officers during the entire war.

This was conferred for "service in action at Graveyard Bend, Va.," where, with his own battery of 3 30-pounder Parrotts, and another of 4 20-pounder Parrotts under his command, unaided by our Navy, he repulsed the rebel fleet in its efforts to pass the obstructions in the James River on the night of January 23. This fleet consisted of three rams, the wooden gunboat Drury, and a small torpedo-boat. The second shot from the battery struck the Drury, and the third exploded her magazine, completely destroying her.

In this engagement he was wounded, with eighteen of his men. Of this affair General Henry L. Abbott, colonel of First Connecticut Artillery, says; "Too much praise cannot be given Captain Pierce, commanding the battery, for his excellent conduct."

After this, a vacancy occurring, Captain Pierce was promoted to be major of his regiment. During that year his nervous system was entirely broken down by the use of quinine, which was issued as a ration, and from the effects of the exposure, which made so heroic a remedy necessary, he never recovered.

Although my husband did not die upon the battle-field, he is none the less a mar tyr to the cause, for it was to the labors and exposure undergone in the service that he owed his death.

As will be seen by accompanying "orders," he was engaged in an exploration which has opened up a hitherto unknown country. He laid down his life that others might find homes in the beautiful and fertile valleys of the Okanakin and Methow. The work imposed upon him, so peculiarly fitted for it in every other way than by physical strength, was more than his broken-down body could endure, and six days' march away from civilization he obeyed the last "order."

I have three children to rear and educate. The eldest will be sixteen in May, and will then forfeit her $2 per month, at a time when every cent is so important in he acquisition of an aducation.

My pension is, including that of my three children, $69 per quarter. I do most earnestly pray for an increase in this being granted, that I may be saved the struggle which confronts any woman left alone, without technical knowledge of any sort that might be applied to earning her own living.

MARGARET E. PIERCE.

MORGANTOWN, W. VA.,
February 26, 1886.

STATE OF WEST VIRGINIA,
County of Monongalia, ss:

The foregoing was subscribed and sworn to before me in my said county, and I hereby certify that the affiant is personally well known to me to be of undoubted credibility.

Given under my hand and official seal this 27th day of February, 1886.

[SEAL.] E. SHISLER,
Notary Public.

[General Orders, No. 22.]

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Vancouver Barracks, Washington Territory, July 25, 1883.

The department commander announces with regret the death of First Lieutenant and Brevet Captain Henry H. Pierce, Twenty-first Infantry, while on special duty in the field, engaged in important topographical explorations, under special instructions from these headquarters.

The record of this officer is one of marked character and distinction, and his decease suggests special mention.

Entering the service for the preservation of the Government as a sergeant in the Fourth Connecticut Volunteers in May, 1861, he was promoted to the rank of major rendering valuable and distinguished services, for which he was three times brevetted, on one occasion for "conspicuous gallantry."

At the close of the war he was commissioned a second lieutenant in the First United States Infantry, and subsequently, being transferred to the Twenty-first Infantry was promotedto first lieutenant in May. 1874.

He possessed not only those qualities which grace an officer of the Government but as a scholar he had few equals, and as an author he held high rank. His literary attainments were of the first order. The excellence of his translations of the Latin classics and his own compositions have already received marked testimonials and strong commendation from some of the most eminent scholars of the age.

During the past eight years he has served a good portion of the time at remote frontier posts, and has also been engaged against hostile Indians in the Northwest. In the autumn of last year he was engaged in a military reconnaissance in an unexplored district of Washington Territory, and at the hour of his death was occupied in completing the work then begun.

The exposure and hardships of military life in the great civil war and on the frontier had undermined his physical strength, and disease fixed its fatal hand upon him. He died at his post, in the field, in the line of duty, and his remains now rest buried near the Upper Columbia River, mid the wild scenes of nature, far from friends and kindred.

In the death of Lieutenant Pierce the service has lost a most earnest and valuable officer, and the sympathy of the department commander is extended to his bereaved family.

By order of Brigadier-General Miles.

O. D. GREENE,
Assistant Adjutant-General.

[Regimental Order No. 49.]

HEADQUARTERS TWENTY-FIRST INFANTRY,
Vancouver Barracks, Washington Territory, August 9, 1883.

The colonel announces to the regiment the death at Foster Creek, Washington Territory, on the 17th day of July, 1883, of First Lieut. Henry H. Pierce, brevet captain U. S. Army, and brevet major of volunteers.

Captain Pierce entered the military service in May, 1861, as a sergeant of Company A, Fourth Connecticut Infantry, afterwards the First Connecticut Artillery, and rose through the several grades until he reached the rank of major in May, 1865. He was three times brevetted for gallantry on the field of battle, once for "conspicuous gallantry," while in command of a water battery on James River, Virginia, in 1865. His service in the field was continuous from May, 1861, to the surrender of the Confederate army at Appomattox, Va., April, 1865. He served at various times as judge-advocate and inspector-general of brigades. His brevets, one of them the most distinguished that can be conferred upon a soldier, and the testimonials of his superior officers, bear witness to his fidelity and courage; and frequent service in staff positions, requiring knowledge and tact, is evidence of his intellect and culture.

In October, 1867, Captain Pierce was appointed a second lieutenant in the United States Army, and assigned to the First Infantry, and while on duty in the State of Louisiana was appointed by Major-General O. O. Howard superintendent of education in that State. The duties of this important office he administered with integrity and intelligence. By direction of the President of the United States, he was detailed in the summer of 1869 on duty in the University of West Virginia, as professor o mathematics and military tactics, and remained in this position for a period of five years. On his promotion to the rank of first lieutenant in 1874, he joined his regiment and served with it at various frontier stations. He was in command of a company in the campaign of 1877, against the Nez Percé Indians, in the famous pursuit of Chief Joseph from the Lapwai to the Missouri River, and shares with his regiment the credit of having participated in one of the most remarkable marches recorded in modern warfare. In 1878–'79 he was professor of military science in the military school at Orchard Lake, Mich. October 1, 1880, Captain Pierce was appointed adjutant of the Twenty-first Infantry, and served in this capacity until October 14, 1882, when he resigned to accept the detail of professor of military science and tactics in Pacific University, Oregon, for which position he was recommended by the department commander. While adjutant he was detailed by Brig. Gen. Nelson A. Miles, commanding Department of the Columbia, to command a scientific exploring expedition from old Fort Colville to Puget Sound. This duty was discharged in a manner so satisfactory that his report of the exploration was published by order of the honorable Secretary of War, on the recommendation of the General of the Army. Family afflictions compelled Captain Pierce to resign his professorship and to return to his regiment in February last. At the time of his death he was in command of a second exploring expedition, having for its object the reconnaissance of the unexplored country between the Columbia River and Puget Sound, along a line south of the forty-ninth parallel. The estimation in which he was held by the department commander has been published to the world in the department order announcing his decease. Captain Pierce, though he was never actively engaged in that profession, was educated for law. He was an original writer of distinction, and made translations of the "Æneid" of Virgil and the "Odes" of Horace, productions of the highest literary merit. His life was one of honor and usefulness. The spirit which led him, amid the cares and annoyances of army routine life, to undertake literary labor was commendable in the highest degree, and is worthy of imitation.

As a mark of respect to the memory of Captain Pierce, the officers of the Twenty-first Infantry will wear the usual badge of mourning for thirty days.

By order of Col. H. A. Morrow.

DANIEL CORNMAN,
First Lieutenant and Adjutant Twenty-first Infantry.

'TH CONGRESS, 1st Session. } SENATE. { REPORT No. 833.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

r. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 898.]

he Committee on Pensions, to whom was referred the bill (S. 898) granting a pension to William A. Penfield, having considered the same, beg leave to report:

The papers in the case show that the same William A. Penfield was nustered into the United States service as a private of Company F, Ninth Regiment of Vermont Volunteers, on the 4th day of August, 1864, and was discharged therefrom June 13, 1865, with his regiment; that at the time of his muster in he was a sound and able-bodied man, notwithstanding the fact that at his enlistment his left leg was a little shorter than the other; that in November, 1864, he suffered so much from exposure at Chapin's Farm, Virginia, that for a time he was unfit for duty, and was under the care of the surgeon; that on or about the 12th or 14th of January, 1865, he was compelled to lie in the trenches at Manchester, Va., the said trenches being at the time filled with water; that from June, 1865, at which time he returned to civil life, up to the present year, he has been a sufferer from rheumatism in his left hip to such an extent that he has been able to engage only in light occupations, and at them could work only about one-half of the time; that the board of examining surgeons appointed by the Pension Office reported, as the result of their examination made by the direction of that office, February 16, 1881, as follows:

> In our opinion the said William A. Penfield is incapacitated for obtaining his subsistence by manual labor from the cause above stated (rheumatism). Judging from his present condition, and from the evidence before us, it is our belief that the said disability did originate in the service aforesaid, in the line of duty. * * * Rate one-half, $4 per month.

The said Penfield filed an application for pension June 21, 1879, which application was rejected by the Pension Office, November 23, 1882, on the ground of "no record of the disability alleged, viz, rheumatism, and of the inability of the claimant to show by medical evidence the existence of said disease in service, at discharge, nor for eight years thereafter."

The sworn statements submitted with the papers show that the claimant could not produce any "record of the disability alleged, * * * or by medical evidence show the existence of said disease in service," because said disease was not developed "in service," while they do clearly show the existence of the disease beginning a short time after

he was mustered out, and continuing up to the present year. And your committee agree with the board of examining surgeons in the opinion quoted, that the claimant is incapacitated for obtaining his subsistence by reason of a disability which did originate in the service, but was not developed till after he had been mustered out and returned to the pursuits of civil life.

Your committee therefore report back the bill, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 834.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2098.]

The Committee on Pensions, to whom was referred the bill (S. 2098) granting a pension to Rosella E. Hibbert, have examined the same, and report:

The claimant, Rosella E. Hibbert, is the daughter of Franklin M. Hibbert, late of Company F, Twenty-seventh Regiment Massachusetts Volunteers. It appears from the evidence that the soldier died on the 16th day of May, 1864. He was married, but his wife died February 2, 1863. Only one child survives, the present claimant, who was pensioned at the rate of $8 per month, commencing May 16, 1864, the date of the soldier's death, which pension was continued until she arrived at the age of 16 years, to wit, February 1, 1879, since which time she has received no pension.

The present application proposes to put her on the pension roll at the rate of $20 a month, and the reasons for such action are well set forth in the following affidavit of W. M. Pease, M. D., dated at Otis Center, Mass., March 26, 1886:

This certifies that I, W. M. Pease, of Otis, have known Rosella E. Hibbert for about three years. She is a person between 3 and 3½ feet in height. She is 23 years of age, with the mental capacity of a child five or six years of age. There is no hope of any improvement. She is unable to help support herself in the smallest degree.

From all the evidence in this case, your committee are of the opinion that this claimant still remains, to all intents and purposes, a helpless child. It appears that she is the only survivor of the family of the soldier, and we think that the pension asked for in this bill should be granted. We therefore report the bill back with the recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 835.

IN THE SENATE OF THE UNITED STATES.

APRIL 29, 1886.—Ordered to be printed.

Mr. SHERMAN, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 1991.]

The Committee on Foreign Relations, to whom was referred the bill (S. 1991) supplementary to and amendatory of "An act to execute certain treaty stipulations relating to Chinese," approved May 6, 1882, as amended by an act to amend said act, approved July 5, 1884, having considered the same, beg leave to report it back with recommendation that it be amended as follows:

Strike out all of the first section, and in lieu thereof insert the following: "The words 'Chinese laborer' and 'Chinese laborers,' wherever used in this act or in the acts to which this act is supplementary or amendatory, shall be held to include and mean any laborer of the Chinese race, without regard to the Government to which such laborer may owe allegiance, and without regard to the port, place, or country from which such laborer may come to the United States; and the words 'Chinese passenger,' wherever used in this act or the acts to which this act is supplementary or amendatory, shall be held to include and mean all persons of the Chinese race, without regard to the Government to which they may owe allegiance, or the port, place, or country from which they may come to the United States."

Strike out of lines 109, 110, and 111 in section 3 the words "at any time within two years from the date of the issuance of the certificate, but not afterwards."

Strike out of lines 130, 131, 132, 133, 134, 135, 136, 137, 138, and 139 the words "That any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate, or forge any such certificate, or knowingly transfer, utter, or have in possession, with intent to use the same, any forged or fraudulent certificate, or falsely personate any person named in any such certificate, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars, and imprisoned in a penitentiary for a term of not more than five years."

Strike out of lines 175 and 176 of said section 3 the words "at any time within two years from the date of the issuance of the certificate."

Transpose sections 4 and 5, so that section 5 shall become section 4, and section 4 shall become section 5.

Insert in line 7 of section 4 (transposed and now become section 5), after the word "upon," the following words: "his or her application, and upon"; strike out of line 9 of said section, after the word "laborer"

and before the words "shall issue," the word "and"; strike out of lines 19, 20, 21, and 22 of said section the words "The purpose and effect of such certificate as evidence shall be the same as is provided in the case of similar certificates issued to Chinese laborers"; strike out of line 22 of said section, after the word "certificate" and before the words "shall be," the words "as herein described"; strike out of line 22 of said section the word "the" which follows the words "shall be," and out of line 23 of said section the word "only" which precedes the word "evidence," and insert in lieu of the two words "the only," stricken out, the word "sufficient"; and strike out of lines 25, 26, 27, 28, 29, and 30 of said section the words "All the provisions relating to certificates issued to Chinese laborers, and to the parties to whom they are issued, and all the restrictions and limitations therein contained, shall be equally applicable to the certificate provided for in this section, and to the parties to whom they are issued."

Insert, after the word "aforesaid," in lines 23 and 24 of section 7 of said bill, the following words: "But the provisions of this act shall not preclude a judicial inquiry into and determination of the right of any person to come into the United States."

Insert, in line 2 of section 8 of said bill, after the words "no master," the words "or other person in charge," and insert, in the said line, after the words "any vessel," the word "whether"; strike out of lines 3 and 4 of said section the words "a citizen of any foreign country," and insert in lieu thereof the words "an alien"; strike out of line 10 of said section the words "shall any person leave any foreign port or place and," and insert at the end of said section, and so that it may form a part thereof, the following: "Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, for each passenger so taken on board and brought within the jurisdiction of the United States exceeding the number of one passenger to every fifty tons of the registered tonnage of such vessel, be fined five hundred dollars, and may also be imprisoned for not exceeding six months. That the amount of the several penalties imposed by this section shall be a lien on the vessel violating the same, and such vessel shall be libeled therefor in the district court of the United States within which district such vessel shall arrive or be found."

Strike out all of section 9 of said bill, and amend the numbering of section 10 of said bill, so that it will read "Sec. 9"; insert in line 5 of said section, after the word "Government," the words "or any other Government," and after the word "thereof," in the said line, insert the words "or their body or household servants."

Amend section 11, so that the numbering thereof shall read "Sec. 10."

Amend section 12, so that the numbering thereof shall read "Sec. 11."

And the committee recommend that the bill as so amended do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 836.

IN THE SENATE OF THE UNITED STATES.

APRIL 30, 1886.—Ordered to be printed.

Mr. BOWEN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 1916.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1916) authorizing the removal of the Southern Ute Indians from the State of Colorado, having examined the same, respectfully report as follows:

During the month of February, 1886, Ignacio, the principal chief of that tribe of Indians, together with two other chiefs, Buckskin Charley and Ta-pu-che, who are of lower rank than Ignacio—the three, however, being all the chiefs of these Utes—visited Washington in company with their agent, Maj. C. F. Stollsteimer, and State senator Hon. A. D. Archuleta, to confer with the Interior Department and the Indian Committee upon the subject of removal from their present reservation in Southwestern Colorado. On the 4th of March, 1886, these chiefs appeared before the Committee of Indian Affairs of the Senate.

The interview between the Indian chiefs and the committee was taken down by the clerk of the committee in shorthand, and is herewith submitted as follows:

In the matter of the proposed removal of the Southern Utes from Colorado to Utah.

Hearing before the Senate Committee on Indian Affairs, March 4, 1886.

TESTIMONY OF BUCKSKIN CHARLEY. [A. D. ARCHULETTA, INTERPRETER.]

Question. What do you come here for?—Answer. We come here to see if we cannot exchange our reservation for another.

Q. Where do you want the new reservation located?—A. We want to go west of the present reservation.

Q. Why is it better to go that way?—A. The present reservation is narrow and long, and we want to go west and see if we can't sell it.

Q. Would they want to become self-supporting?—A. We want to go west and get grass land and raise stock. Where we are we do not live comfortably. It snows so much in the winter that we are obliged to go some place else, and we would like to have some sheep and go west. Another reason why we want to go is that the other Indians, the Navajos, are west, and we want to get near them. We live too far from them and can't visit them without traveling very far.

Q. If you should go to a new reservation would you like to have a boarding school built for your children?—A. We are willing to send our children to school; but not away from home, because when they go away they die, and we cannot account for it.

Q. Have you ever been on the Uintah Reservation?—A. No.

Q. Do you live peaceably with the other Utes?—A. Yes.

Q. Wouldn't you want to go on the Uintah Reservation with the rest of the Ute
A. No, because there is not room enough, and we want to have our own land by
selves.

Q. Do you wear such clothes as these [indicating citizen's dress] at home?—A
the winter time we do.

Q. Where did you get these?—A. From the Commissioner.

Q. Do you come here now to get legislation?—A. We come here to present the
sire of the Indians.

Q. Do you come to Washington with the idea that the Indian Bureau can do w
you want?—A. We come expecting to get legislation.

Q. You hold title under statute?—A. Yes.

Q. So that the change must be made by another statute?

Senator BOWEN. That is the condition of affairs, and it ought to be done at on

Q. These Indians have lived on their reservation heretofore; why can't they
there now as well?—A. Because of the encroachments of the white men.

Q. Are they cattlemen or miners?—A. There is no mining in this country. I
the border thief and desperado that makes the trouble, and they are in there.

Q. What makes the Indians think they will be safer from encroachment if t
move farther west?—A. Because they will be farther from the settlers and nearer
rest of the Indians.

The CHAIRMAN. The white man follows pretty fast.

A. Farther west there is not so much water, and the Indians don't think the wl
men would trouble them so much. They want to get grazing land and go into
sheep business.

In case the Senators present would like to give the Indians the land west, they t
desire to say they want a man to go out there and show them just what land is the
so there will be no mistake about it. Then they want it understood that no cat
men should come on it.

TESTIMONY OF CHIEF IGNACIO.

Question. What do you come here for?—Answer. We came here to see the Sena
and see what they can do for us. We have stated what we want, and expect the S
ators will do something for us.

Q. Do you agree with Chief Charley in what he has said?—A. Yes; that is all ri
Whatever Charley has said is straight.

Q. Have you got any stock?—A. I have got some sheep.

Q. How many sheep?—A. Very few.

Q. How many?—A. About a hundred.

Q. What do you do with the wool?—A. I sell it.

Q. What do you do with the money when you get it?—A. I have got a mouth
buy things to eat.

Q. What do you do in the summer?—A. I worked all summer in a ditch, but
water did not run through it.

Q. Have you got any children?—A. No; they died last summer.

Q. Do all the Indians of your tribe want to move west?—A. Yes.

TESTIMONY OF CHIEF TA-PU-CHE.

Q. Have you talked with Charley about moving west?—A. Yes; we all wan
go west.

BUCKSKIN CHARLEY.

I want to ask why we don't get our per capita money in the fall as it was promi
We get it all too late. We think the promises in the treaty have not been kept.
you want the Indians to be contented things ought to be done as they are promi
We also want to have provisions, blankets, and such things. These goods are
given to us for nothing, but come from the sale of our land. We were also prom
three large American stud horses, so that we could raise plow-horses, but we have
got them yet.

On the 5th of April, 1886, in response to a letter from the commit
the honorable Commissioner of Indian Affairs reported by letter to
honorable the Secretary of the Interior his views upon the subject,
on the 8th of the same month the honorable Secretary forwarded
same to the committee, accompanied by a communication of his o
approving the suggestions of the Commissioner. For a full un

standing of the views of the Department, we embody both of said communications, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 5, 1886.

SIR: I have before me two separate bills providing for the removal of the Southern Ute Indians from their present reservation, in Southwestern Colorado, to Utah, viz, S. 769, introduced by Mr. Teller, and S. 1916, introduced by Mr. Bowen, both referred to this Department by the chairman of the Committee on Indian Affairs of the Senate.

An expression of opinion is desired from the Department as to the wisdom of the measures proposed by these bills.

Accordingly, I have the honor to state that it is the declared wish of the Southern Ute Indians to remove from their present reservation; but it appears they do not desire to be consolidated with or settled amongst either of the other Ute tribes. They are very much dissatisfied with their present reservation, and the first proposition looking to their removal came from the Indians themselves. This dissatisfaction is due in large measure to the disadvantages arising from the unfortunate position and configuration of their reservation, which is 110 miles in length by only 15 miles in width. There are populous towns and villages in close proximity to the reservation both on the north and south, and a large rural population for many miles around. The rivers, which are numerous, cross the reserve from north to south, and thoroughfares are, and of necessity must be, kept open for travel and commerce between these settlements. The Indians find it difficult to keep their stock from roaming beyond the narrow limits of their reserve, and they are constantly annoyed by encroachments from the outside.

They are a pastoral people, and altogether own 4,000 head of horses and mules, about the same number of sheep, besides several hundred head of cattle. Although they number 983 souls, they have but 200 acres of land under cultivation. With few exceptions, they show but little inclination to engage in agricultural pursuits.

It would be next to impossible to close up the thoroughfares across the reservation. To do that would be to erect a "Chinese wall" 110 miles long, virtually cutting off all trade and intercourse between the large and constantly increasing communities on either side of the reservation; and yet, as a matter of fact, we are bound by solemn treaty stipulations with these Indians to prevent white people from entering upon or crossing said reservation.

As it is, the Indians are in constant trouble. Difficulties are of frequent occurrence, and the relations existing between the Indians and whites are becoming more and more strained. Indeed, they have not always escaped actual conflict. Under the circumstances, it is idle to expect that they will make any advancement where they are. In their present position and surroundings they are helpless. This is so apparent that they realize it themselves, and ask to be removed, declaring that they are heartily tired of the constant turmoil in which they have lived ever since the whites came into their country.

It is the decided opinion of this office that these Indians should be removed from Colorado. With some amendments, I think the bill introduced by Senator Bowen, (S. 1916) is altogether preferable to S. 769. The latter does not provide for obtaining the consent of the Indians, which we would be bound to do under an existing agreement with them, nor for compensating the Indians for improvements owned by them on their present reservation, nor does it provide for the disposal of the Government buildings on the present reservation, nor for the erection of necessary agency buildings on the new reservation. All these things are provided for in the other bill—S. 1916. I shall therefore confine myself to the consideration of the latter.

The first section of the bill defines the boundaries of a reservation in Southeastern Utah, on which it is proposed to settle these Indians, as follows:

"Beginning at the southeast corner of the Territory of Utah; running thence north along the eastern boundary line of said Territory of Utah one hundred miles; thence west, true courses, to the center of the channel of the Colorado River; thence southwesterly along the center of the channel of said stream to the southern boundary of said Territory of Utah; thence east along the southern boundary line of the said Territory to the place of beginning; excepting, however, such portion of the Territory above described lying south of the San Juan River now constituting a portion of the Navajo Reservation."

Upon investigation I find that there are four towns within the territory thus described, three of which are post-office towns, and one, Bluff, is the county seat of San Juan County. The Compendium of the Tenth Census of the United States gives Bluff City precinct a population of 107, and the remainder of the county 97; total, 204 (Part I, p. 310). It sets down the number of farms in the county at 31 (p. 732). That was six years ago. Rand, McNally & Co.'s Index Atlas of the World, p. 746, gives

La Sal a population of 22. The other towns are Saint Elmo and Montezuma, the popu lation of which I have been unable to ascertain. La Sal is in the extreme northea corner of the proposed reservation, while the other three towns, Bluff, Saint Elm and Montezuma, are on the San Juan River, in the southeast corner.

I find also that the public surveys have been extended over the territory in que tion to this extent: Fifteen townships (some fractional) have been subdivided an the exteriors of some twenty others have been surveyed, and about fourteen more a now under contract.

I suppose it is fair to presume that these surveys were extended to meet the wan of settlers, and if that be the case, it would indicate that there are settlers in th county outside of the several towns. How many there are scattered over the ter tory in question it is impossible to tell from any data in the Department, but it is n unlikely that they are numerous, and it is equally probable that the population the towns has increased to some extent since the census of 1880.

Enough is known, however, to suggest the necessity for amending the bill as gards the settlement of the Indians on the particular tract described therein. T fact that there are several towns and possibly numerous rural settlements within t tract makes it a question of grave doubt whether the Indians would gain anythi by exchanging their present reservation for the one proposed in the bill. Their ch object in removing from Colorado is to get away from the white settlements. The desire to raise cattle and increase their herds, and experience has shown them th they cannot do this successfully in the midst of a white population, especially on chiefly engaged in the same occupation. The advantages are all against them, as i always the case with the weaker against the stronger. The Indians hope in removing to separate themselves from the whites; they do not wish to share lands with and settle amongst them. Hence it is desirable that a tract of unoccupied land be selected for them. I am aware of the difficulty likely to be met with in finding a suitable tract of unoccupied country anywhere large enough to accommodate these Indians, and for that reason it would be well if the Indians could be induced to settl with their kindred tribes on the Uintah Valley Reservation, in the northeastern par of the Territory. They would find better lands lands there; the cost of transportation would be less, and a better supervision could be had over them.

It is possible, however, that a sufficient quantity of unoccupied land—a quantit equal to that they now occupy—might be found west of the surveyed lands and set tlements in San Juan County, or, if not there, on the west side of Grand River.

At all events, it is clear to my mind that the selection of a reservation (unless th Indians will consent to go to the Uintah Valley Reservation) should not be made unti the Indians have had an opportunity to visit the country and explore for themselve They should be accompanied and assisted in making their selection by the commissio to be appointed under the provisions of the bill.

I recommend the amendment of the bill to conform to the foregoing suggestion Without such amendment I could not recommend its passage.

The amendments I would propose are as follows:

At the end of line 9, section 1, insert the following words, viz:

"The Uintah Valley Reservation, in Utah, or, if they shall refuse to settle o said reservation, then upon such unoccupied land, not less in extent than thei present reservation, as may be found in that vicinity or elsewhere in said Terri tory: *Provided*, That no selection of a reservation for said Indians shall be made out side the Uintah Valley Reservation until said Indians, through a delegation of thei people, to be selected by not less than three-fourths of the adult male Indians o said tribe, shall have had an opportunity to explore such portions of said Terri tory as they may desire to visit for that purpose, accompanied by said commission, with a view to selecting a suitable tract for their permanent settlement thereon; and the reservation so selected shall, upon the removal and settlement of said Indian thereon, constitute the reservation for the Southern Ute Indians: *Provided further* That the President may, in his discretion, reduce the area of said reservation if, i his judgment, it shall be found to be out of proportion to the numbers of Indians set tled thereon, and greater than their actual needs require: *Provided further*, That al improvements heretofore made by any settler who has made settlement in person upo any lands that may be included in said reservation, and has inhabited and improve the same, and erected a dwelling thereon, with the intention of acquiring title to th lands so occupied by him under the laws of the United States, shall be appraised b said commission, and the rightful owners thereof shall be paid the appraised valu of their respective improvements, by the Secretary of the Interior, upon satisfactor proof of such *bona fide* settlement, residence, and improvement, and for that purpo the sum of ten thousand dollars, or so much thereof as may be necessary, is hereb appropriated out of any money in the Treasury not otherwise appropriated, and upo such payment being made all such settlers shall be required to remove from said res ervation."

In section 3, line 11, after the word "aforesaid" and before the word "for," insert the following words, viz, "and in one or more daily newspapers published in the city of Denver, Colorado."

In the opinion of this office the weekly papers of Durango would hardly give sufficient publicity to the proposed sale of Indian improvements.

In conclusion I will state that a delegation of Southern Utes was here recently to urge the removal of the tribe from Colorado, and I make no doubt that the Indians will gladly give their consent to the measures proposed in the bill.

I return herewith both of the bills, and inclose a copy of this report.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, April 8, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of 23d ultimo inclosing for the views of this Department, S. 1916, authorizing the removal of the Southern Ute Indians from the State of Colorado to the Territory of Utah; also your letter of 6th February last, inclosing with like request S. No. 769, "to provide for the removal of the Southern Ute Indians from Colorado."

The bills in question having been referred to the Commissioner of Indian Affairs, I inclose herewith for the information of the committee copy of his reply of 5th instant.

The Commissioner reports that it is the declared wish of the Southern Ute Indians to remove from their present reservation, owing to the close proximity of the white settlers, and the constant encroachments thereon from the outside; and that it is the decided opinion of his office that these Indians should be removed from Colorado.

As between the two bills presented, S. 769 and S. 1916, both having the same object in view, he is of opinion that with some amendments which he suggests S. 1916 is, for reasons stated by him, preferable to S. 769; and he therefore devotes his report to the consideration of that bill, suggesting its amendment to provide for the removal of the Indians to the Uintah Reservation in Utah Territory, if they can be induced to go there.

He also expresses the opinion that unless the Indians will consent to go to the Uintah Valley Reservation, the selection of a reservation for them should not be made until they have an opportunity to visit the country and explore for themselves, and that they should be accompanied and assisted in making their selection by the commission to be appointed under the provisions of the bill (No. 1916), and he suggests an amendment to the bill to cover his views on this point.

Concerning the proposed reservation in Southeastern Utah, he states that upon investigation it is found that there are four towns within the described territory, three of which are post-office towns, and one, Bluff City, is the county-seat of San Juan County, and that the number of farms in said county enumerated in the Tenth Census are stated at 31; that it is impossible to tell from the data in the Department how many settlers are scattered over the territory proposed to be reserved, but it is not unlikely that they are numerous, and he believes that the population of the towns has increased to some extent since the census of 1880; and owing to these facts it is a question of grave doubt whether the Indians would gain anything by exchanging their present reservation for the one proposed in the bill. These facts sufficiently show the necessity for the amendments suggested by the Commissioner of Indian Affairs.

His recommendations and the amendments proposed by him to S. 1916, herewith returned, have the approval of this Department.

S. 769 is also herewith respectfully returned.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The CHAIRMAN *Committee on Indian Affairs, United States Senate.*

The amendments suggested by the Department were embodied in the bill by the committee, and the bill thus amended was, on the 22d of April, 1886, reported to the Senate, and on the same day recommitted to this committee.

The following additional amendment to the amendment heretofore reported is recommended by the committee, viz: In the first section, after

the word "selected," in line 33, insert the following: "When agreed to by said commission and approved by the Secretary of the Interior."

The removal of the Southern Ute Indians from their present reservation, it is shown, is desired by the Indians themselves, and is thought advisable by the Interior Department.

The Indians having expressed the desire to examine before accepting a new reservation in lieu of their present one, your committee have thought it best to adopt the suggestions of the Department and allow representative Indians to accompany the commission, and leave the new location to be agreed upon by the Indians and the commission after inspection, and finally to be approved by the Secretary of the Interior before any steps toward removal are made.

Your committee therefore recommend that the amendments proposed to the bill be adopted, and that the bill do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 837.

IN THE SENATE OF THE UNITED STATES.

MAY 3, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 4009.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 4009) for the relief of Ann B. Hubbard, administratrix, having had the same under consideration, report back said bill with the recommendation that it be passed, and in explanation thereof submit the House report on the bill, as follows:

The petition of the claimant sets forth the facts in this case (which are admitted by the Post-Office Department), as follows:

"That for some time prior to December 8, 1871, he [Edward Hubbard, husband of petitioner], performed the services of carrying the mails of the United States between Wiscasset and Sheepscott Bridge post-office, as subcontractor under John T. Berry and others; that on said December 8, 1871, the contract of said Berry and others with the United States was canceled; that the postmaster at Wiscasset requested [the husband of] your petitioner to continue transporting the mails as he theretofore had done, which [the said husband of] your petitioner did until the 11th day of February, 1873, when he was designated by the Post-Office Department to transport the mails at the rate of $286 by the year.

"Your petitioner further says that, on presentation of his [Edward Hubbard's] account to the Post-Office Department, payment of it was refused, for the reason that the Postmaster-General, under the law, was not authorized to pay for services not previously ordered by the Department, and appearing on the books of the Department.

"That the postmaster at Sheepscott Bridge neglected to invite bids for that service, as he was instructed to do."

The following letter from the Post-Office Department corroborates the statement of the claimant:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., December 18, 1874.

SIR: In reply to your letter of the 17th instant, requesting information relative to a claim of Edward Hubbard for mail-service to Sheepscott Bridge, Me., you are respectfully informed that the postmaster at Sheepscott Bridge was instructed, on the 3d January, 1872, to invite bids for mail-messenger service between his office and Wiscasset, Me., and forward all bids received to this office, with a report of his action in the matter. These instructions were never carried out. In the mean time, it appears from a letter of the postmaster, he assumed the responsibility, without the knowledge or consent of the Department, and employed Hubbard to do the service from December 8, 1871, to February 11, 1873.

This service never having been authorized by the Department, the Postmaster-General had no power under the law to pay for it; but it would seem just and right that some compensation should be allowed Hubbard, as he performed the service in good faith and by directions of the postmaster.

Very respectfully, &c.,

J. L. FRENCH,
Acting Second Assistant Postmaster-General.

Hon. M. H. DUNNELL,
House of Representatives.

The Committee on Claims of the Forty-third Congress made a favorable report in this case, which passed the House February 27, 1875, but too late for action by the Senate. The Committee on Claims of the Forty-sixth and Forty-seventh Congresses also reported this case favorably, but the bill was not reached for action in either Congress.

In view of the facts herein stated, your committee report back the accompanying bill, providing for payment at the rate established by the Post-Office Department for the time which the mail was actually carried, and recommend that the same do pass.

To the honorable the Senate and House of Representatives of the United States:

Your petitioner, Ann B. Hubbard, of Wiscasset, Me., as administratrix of the estate of Edward Hubbard, deceased, respectfully represents—

That for some time prior to December 8, 1871, the said Edward Hubbard, as subcontractor under John T. Berry and others, performed the service of transporting the mails of the United States between the post-offices at Wiscasset and Sheepscott Bridge, in the State of Maine.

That on or about the 8th day of December, 1871, the contract of the said Berry and others with the United States was canceled.

That on or about January 3, 1872, as your petitioner is informed, instructions were issued by the Postmaster-General to the postmaster at Sheepscott Bridge to invite bids for the service between his office and Wiscasset, and that, for some reason to your petitioner unknown, the instructions thus issued were not carried out.

That not being advised of the instructions thus issued, and acting on the authority assumed by the postmaster at Sheepscott Bridge, and also at the request of the postmaster at Wiscasset, the said Edward Hubbard continued to transport the mails between the points named from the said 8th day of December, 1871, until the 11th day of February, 1873, on which last-named date he was regularly designated by the Post-Office Department to transport the said mails at the rate of $286 per annum.

Your petitioner further represents that upon the presentation by the said Edward Hubbard of his account to the Post-Office Department, payment thereon was refused for the reason that the Postmaster-General, under the law, was not authorized to pay for services not previously ordered and appearing on the books of the Department.

That the service for which the account was rendered was performed in good faith and was accepted by the Department, and that, in equity, compensation therefor should be allowed.

Wherefore, your petitioner earnestly prays that compensation therefor be allowed, and that such further relief be granted in the premises as may be just and proper.

And your petitioner will ever pray.

ANN B. HUBBARD.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 838.

IN THE SENATE OF THE UNITED STATES.

APRIL 30, 1886.—Ordered to be printed.

Mr. JONES, of Arkansas, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 138.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 138) to provide for the sale of the Cherokee Reservation in the State of Arkansas, have had the same under consideration, and report as follows:

Mr. Walker, of Arkansas, in the Forty-eighth Congress, made a report to the Senate on this subject, which is as follows:

The Committee on Public Lands, to whom was referred the bill S. 1574, has considered the same, and with the amendments hereinafter proposed recommend its passage.

While this tract of land is called the Cherokee Reservation, it is not in a proper sense an Indian reservation, as its name indicates. At the time the treaty of 1828 was concluded, whereby an interchange of lands was made between that tribe and the United States, their agency was located upon the lands mentioned in this bill, and in said treaty the following provision is found:

"It is further agreed that the property and improvements connected with the agency shall be sold under the direction of the agent, and the proceeds of the same applied to aid in the erection, in the country to which the Cherokees are going, of a grist and saw mill for their use."

In the subsequent treaty of February 14, 1833, the following language is found:

"And said United States will cause to be erected on said lands, for the benefit of said Cherokees, eight patent railway corn-mills, to be erected according to the stipulations of the fourth article of said treaty of sixth of May, one thousand eight hundred and twenty-eight, from the avails of the old agency."

On June 23, 1834, Congress made an appropriation of $1,600 for the purchase of the corn-mills for the Cherokees, and in 1844 eight patent railway corn-mills were purchased by the Indian agent and paid for by the United States, costing $200 each. Prior to 1834 an effort had been made to sell the reservation, the agent selling the same becoming the purchaser, which pretended sale was canceled. Whether the patent railway corn-mills were erected or not, as provided by the stipulation above should be done, different Commissioners of Indian Affairs seem to differ in opinion. The Indians insist that seven of them were not erected.

The eighteenth article of the treaty of July 19, 1866, reads as follows:

"That any lands owned by the Cherokees in the State of Arkansas, and in the States east of the Mississippi, may be sold by the Cherokee Nation in such manner as their national council may prescribe, all such sales being first approved by the Secretary of the Interior."

In 1866 it appears that a memorial on the part of the Cherokee Indians was filed with the Interior Department, praying a patent for said lands, upon which the Commissioner of Indian Affairs, under date of August 3, 1866, reported to the effect that the lands in question were a part of the public domain, and that the Cherokees had no interest therein. On the 14th of August, 1866, the Secretary of the Interior instructed the Commissioner of the General Land Office "to take the proper steps to bring said land into market." For want of funds to make the necessary surveys the lands were not at that time placed upon the market.

On June 1, 1877, the Commissioner of the General Land Office addressed a letter t the Commissioner of Indian Affairs, stating that application had been made for a su vey and sale of the lands, and asking whether the stipulations relative to said lan under the treaties of 1828 and 1833 had been complied with on the part of the Unite States, or whether those obligations remained in force. In it the further stateme was made that the lands were claimed by the Indians under article 18 of the treaty July 19, 1866.

Under date of February 18, 1878, the Commissioner of Indian Affairs reported to t Department, expressing the opinion that the treaty obligations of the United Sta had been complied with, and that the Indians had no title to the land. He also r ommended that the Commissioner of the General Land Office be instructed to tr the same as a part of the public domain, and proceed to the survey and sale there whenever such course might be deemed practicable and advisable. The Secretary the Interior concurring in the opinion of the Commissioner of Indian Affairs, on J 27, 1878, transmitted his report to the Commissioner of the General Land Office, a referred the subject to him for action. The Commissioner of the General Land Off thereupon caused the lands embraced in the reservation to be surveyed, and instruct the register and receiver at Dardanelle, Ark., that the even-numbered sections fe within the grant to the Little Rock and Fort Smith Railroad Company, and that th odd-numbered sections were subject to entry under the pre-emption and homestea laws as unoffered public lands of the United States.

Homestead entries were at once made by settlers upon the odd-numbered sections On the 27th August, 1879, a party made application at the local land office for a home stead entry on an even-numbered section of the reservation, which was refused, an he appealed. The Commissioner of the General Land Office decided the case upo appeal, March 8, 1881, and in an elaborate opinion recites the action hereinbefor mentioned, as well as the further fact that the Commissioner of Indian Affairs, a late as August 23, 1879, adhered to his opinion of February 18, 1878, that the corn mills had been erected. The Commissioner of the General Land Office approving quotes from his report of that date the following language:

"But even if the Government were in default in the full performance of its part said agreement, such fact would not impair *the validity of the cession*. It could onl at most, give a claim to money compensation for non-fulfilled treaty obligations. *T Indian title was fully extinguished by the cession, and no failure to pay the price agreed co restore or revive it.*"

The Indians, it will be remembered, claimed title because, as they say, the cor mills had not been erected. His conclusions were that the title is unquestionably the United States, but that the Indian Office, the Secretary of the Interior, and hands had overlooked the reserved condition of the lands; that, because of their served state, the railroad company had no interest in them whatever; and for t same reason homestead entries had been prematurely allowed, an act of Congr being necessary to relieve them from their reserved condition, and to open them entry.

The following language is used by him in the concluding portion of his opinion:

"The action of this Department in 1866, in erroneously treating the reservation unreserved public lands, and proposing to bring the same into market, was tan mount to an official permission to settlers to enter upon the land with a view to quiring title under the settlement laws of the United States. The later action of t Department in 1878, and the instructions issued by this office thereunder, allow homestead and pre-emption entries to be made upon odd-numbered sections.

"It is thus seen that settlers have been led by the acts of the Executive Depa ment to establish themselves upon this land, and to invest their means and labor its improvement.

"The reservation embraces 3,343.41 acres, and is situated on the Arkansas Riv along the line of the Little Rock and Fort Smith Railroad, and near the town of D danelle.

"In 1878 there were, according to official reports, some thirty settlements on t reservation, covering about 600 acres. Other settlements may have since been ma

"The occupants who have already filed their homestead applications have don under the authority of this Department; they have complied with all the form law in respect to such applications, and have paid the legal fees and commissio which moneys have been duly accounted for and covered into the Treasury.

"Those who have been prevented from making homestead or pre-emption entri in consequence of the instructions of this office, that the land in even-numbered s tions inured to the railroad company, have scarcely less equitable rights than tho who have been permitted to formally file their claims.

"As to either class of settlers it would, I think, be a hardship that ought to avoided, if possible, to require the lands to be appraised at their present value, an thus compel the occupants to pay for their own improvements, when they have e

e no question, in the opinion of your committee, as to the correctness of these
nsions.

is bill, as presented, meets with the approbation of the Commissioner of the Gen-
Land Office.

suggests an amendment in line 17 of section 3: after the words "pre-emption
" to add the words "or their applications under the homestead laws." To this
committee have no objections, and with this amendment recommend the passage
e bill.

his committee adopt the above report, and recommend the passage
ne bill.

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Senate award of the 5th of September, 1850, or to the eleventh article of the treaty of 1846. * * * If, however, the intention of the bill be to pay these Indians the sum of $16,000 with interest thereon, as a money compensation for the eight patent railway corn-mills named in the bill," which were to be furnished under the provisions of the treaty of 1834 in lieu of the grist and saw mill stipulated in the treaty of 1828, "no objection can be made to the purpose of the bill, as the Government is manifestly under an obligation to erect the said patent railway corn-mills or pay the money compensation therefor."

The Commissioner expresses the view that the amount named in the bill is excessive, and that whatever amount is appropriated in settlement of the claims should be paid to the Cherokee Nation; and he has caused a bill to be drafted, a copy of which is herewith inclosed, intended to meet the views in the case as expressed by him, which provides for the payment of the sum of $2,800 with interest thereon, from June 28, 1834, at the rate of 5 per cent. per annum until paid; to be in full of all claims, &c., which he suggests may be adopted as a substitute for S. No. 1601.

The report of the Commissioner has the concurrence of this Department.

Very respectfully, H. L. MULDROW,
Acting Secretary.

The CHAIRMAN *Committee on Indian Affairs, United States Senate.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 20, 1886.

SIR: I have the honor to acknowledge the receipt, by your reference for report, of a communication dated the 1st instant, from Hon. H. L. Dawes, chairman of the Senate Committee on Indian Affairs, referring for examination and early report a bill (S. 1601) entitled "A bill to provide for the settlement of certain Cherokee claims."

This bill authorizes and requires the Secretary of the Treasury to pay, out of the Treasury of the United States, to the "Old Settler" or Western Cherokee Indians the sum of $16,000 with interest thereon, as provided by Senate resolution of September 5, 1850, based upon the eleventh article of the Cherokee treaty of 1846: *Provided*, That the same shall be taken and accepted as a full and final discharge of all claims against the United States arising from or growing out of all treaties made with the "Old Settler" or Western Cherokee Indians for or on account of the value of the Old Cherokee Agency, in the State of Arkansas, as well as for the value of a certain grist and saw mill provided for in the Cherokee treaty of 1828, and eight railway corn-mills provided for in the treaty of 1834.

In reply, I have the honor to report that the eleventh article of the Cherokee treaty of 1846, is as follows:

"Whereas the Cherokee delegations contend that the amount expended for the one year's subsistence, after their arrival in the West, of the Eastern Cherokees, is not properly chargeable to the treaty fund, it is hereby agreed that that question shall be submitted to the Senate of the United States for its decision, which shall decide whether the subsistence shall be borne by the United States, or the Cherokee funds, and if by the Cherokees, then to say whether the subsistence shall be charged at a greater rate than $33.33 per head; and also the question, whether the Cherokee Nation shall be allowed interest on whatever sum may be found to be due the nation, and from what date and at what rate per annum." (9 Stats., p. 875.)

The resolution of the Senate approved September 5, 1850, based upon said eleventh article of the treaty of 1846, is, in words, as follows:

"IN THE SENATE OF THE UNITED STATES,
"*September* 5, 1850.

"*Resolved by the Senate of the United States (as umpire under the treaty of* 1846), That under the circumstances, the Cherokee Nation are entitled to the sum of $189,422.76 for subsistence, being the difference between the amount allowed by the act of June 12, 1838, and the amount actually paid and expended by the United States, and which excess was improperly charged to the treaty fund in the report of the accounting officers of the Treasury.

"*Resolved*, That it is the sense of the Senate that interest, at the rate of 5 per centum per annum, should be allowed upon the sums found due the Eastern and Western Cherokees, respectively, from the 12th day of June, 1838, until paid."

In accordance with this award, Congress, in the Indian appropriation act, approved September 30, 1850, appropriated conditionally the aforesaid sum of $189,422.76, and the further sum of $532,896.90, to the "Old Settler" or "Western Cherokees" in full of all demands under the fourth article of the treaty of 1846 (9 Stats., p. 556), which sums have been fully disbursed and paid over, under protest on the part of the Old Settlers, to the respective parties in interest.

From the extended debate which arose in the Senate on the 5th of September, 1850, on the resolutions aforesaid, it was clearly brought out that only two questions were submitted for the decree of the Senate, viz, subsistence and interest (see p. 1334–1340 Appendix Congressional Globe, Thirty-first Congress, first session).

I cannot, therefore, see what relation the sum of $16,000 proposed by the bill to be appropriated and paid to the "Old Settler" or Western Cherokee Indians bears either to the Senate award of the 5th of September, 1850, or to the eleventh article of the treaty of 1846 (see House Report 2651, Forty-eighth Congress, second session).

If, however, the intention of the bill be to pay these Indians "the sum of $16,000 with interest thereon" as a money compensation for the eight patent railway corn-mills named in the bill and provided for in the Cherokee treaty of 1838, which was proclaimed April 12, 1834 (7 Stats., p. 416), which were to be erected in lieu of the grist and saw mill according to the stipulation of the fourth article of the treaty of 1828 (7 Stats., p. 312), then no objection should be made to the purpose of the bill, as the Government is manifestly under an obligation to erect the said patent railway corn-mills or pay a money compensation therefor.

Congress, by the act of June 28, 1834 (4 Stat., p. 705), made an appropriation for the purchase of these corn-mills, and the Second Auditor of the Treasury, in a communication to this office, dated November 14, 1877, transmitted a copy of a voucher filed with the account rendered by P. M. Butler, Cherokee agent and special disbursing officer of the appropriation in question, which is as follows:

The United States to James Bonbright Dr., 1844.

For eight patent railway corn-mills, as per fourth article treaty of 1833, at $200 each	$1,600

Received, Fort Gibson, November 30, 1844, of Pierce M. Butler, Cherokee agent, $1,600, in full of the above account.

JAMES BONBRIGHT.

I certify on honor that the above account is correct and just, and that I have actually, this 13th day of November, 1844, paid the amount thereof.

P. M. . "LER,
Cherokee Agent.

Showing that the eight mills were duly purchased; but from subsequent investigation made by this office, through Indian Agent John O. Tufts, it appears that evidence of the erection of only one of these mills could be obtained, and nothing is known of what became of the other seven.

The cost of the eight railway corn-mills, with the expense of their erection, should form a basis for an estimate of the amount the Government would have expended had the stipulations of the treaty in that respect been fully executed at the time, as was contemplated, by the appropriation made June 28, 1834. To this amount should be added the interest thereon, not from the 12th of June, 1838, as designated in the Senate resolutions, but from a period not later than the proclamation of the treaty, April 12, 1834, or the date of the appropriation June 28, 1834, until paid. Had the cost of transportation and other expenses incident to their erection been equal to the cost of the mills, the account would stand thus:

Cost of seven mills, $200	$1,400
Cost of erection	1,400
Interest on $2,800 for fifty-two years, at 5 per cent	7,280
	10,080

I, therefore, think the sum of "$16,000, with interest," an excessive amount to pay for said corn-mills, which is the only claim the Cherokees could have on the Government in consideration of the cession of the Old Cherokee Agency in the State of Arkansas.

There is a question as to whether the "Old Settler" or Western Cherokees are entitled to whatever may be due in respect of the corn-mills in question, to the exclusion of other portions of the Cherokee people, or as to whether the whole Cherokee Nation is not entitled to whatever may be found due in that respect.

It would appear by reference to the treaty of 1817 (7 Stats., 156) that the land in Arkansas was granted to that part of the Cherokee Nation then residing on the Arkansas River, now known as the "Old Settler" or Western Cherokees.

The land in Arkansas was ceded to the United States by the treaty of 1828 (*Id.* 311), by the fourth article of which the Government agreed to erect a grist and saw mill for the Cherokees in their new home (Indian Territory), and in lieu of which the patent railway corn-mills were to be erected as stipulated in the fourth article of the treaty of 1833 (*Id.* 416).

It is presumed that the "Old Settler or Western" Cherokees base their claim upon the fact that the lands in Arkansas appear, by the treaty of 1817, to have been given them exclusively, and the further fact that the mills were to be erected upon lands in the Indian Territory, for an interest in which they had surrendered their lands in Arkansas. But by reference to the preamble to the treaty of 1828 it will be seen that the purpose of the Government in ceding the lands described in the second article, viz, the lands in Indian Territory, was to secure a permanent home to the whole Cherokee Nation, as well those in Arkansas as those residing east of the Mississippi who might wish to join them in the West, and by reference to the fourth article of the treaty of 1846 (9 Stat., 872) it will be observed that it was therein determined that the "Old Settler or Western" Cherokees had no exclusive title to the land ceded to the Indians by the treaty of 1828, but that the same was intended for the whole Cherokee Nation.

If, then, the land given to the Cherokees by the treaty of 1828 was for the benefit of the whole Cherokee Nation, all benefits accruing under that treaty, unless expressly reserved, belong to the Cherokee Nation, and therefore the Old Settlers or Western Cherokees have no exclusive right to anything that may be due in respect of the aforesaid corn-mills. It is evident that if the mills had been erected in the Indian Territory, as the Government agreed to do, they would have been for the use of the whole nation.

If it be the purpose of the present bill to pay the value of the corn-mills not erected, and cost of transportation and other expenses which would have been incident to their erection, with interest, then, in my opinion, said bill should be so amended as to make the payment to the Cherokee Nation.

I have caused to be drafted a bill intended to meet this view of the case, and, with your concurrence, have the honor to recommend that the same be forwarded with the suggestion that it be adopted as a substitute for Senate bill No. 1601.

For a history of the status of the land known as "the Old Cherokee Agency" I would respectfully refer you to the following public documents (copies of which I am unable to submit), viz: House Report No. 1146, Forty-seventh Congress, first session; House Report No. 2021, Forty-eighth Congress, first session; Senate Report No. 908, Forty-seventh Congress, second session; Senate Report No. 287, Forty-eighth Congress, first session.

I return herewith the communication of Senator Dawes with the bill, and submit herewith a copy of this report and draft of proposed substitute.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

This committee regard the estimate of General Atkins as reasonable and adopt the same, but do not agree to the payment of interest thereon.

Whether this money should be paid to the "Old Settlers" or Western Cherokees or to the Cherokee Nation, is a question not free from difficulty. The honorable Commissioner of Indian Affairs concludes that it should go to the nation, but from this opinion this committee are forced to dissent.

The land which was conveyed to the Government as the price of the erection of these mills was the property of the "Old Settler" Cherokees. That part of the tribe residing east of the Mississippi were not parties to the treaty, and while the stipulation to erect a mill provided that it should be placed in the country now occupied by the Cherokee Nation, there is no evidence of any intention to so place the mill for the benefit of the Eastern Cherokees, but it was to be erected in the country to which the Western Cherokees were themselves ready to move.

A circumstance to be considered in this connection is that at that time there was no agreement even with the Eastern Cherokees for their removal, and they did not remove until 1835 to 1837. Under these circumstances it seems that no intention on the part of the Western Cherokees to make the Eastern Cherokees equal beneficiaries in this matter with themselves could be inferred.

Your committee therefore report the accompanying bill as a substitute for bill S. 1601, and recommend that it pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 840.

IN THE SENATE OF THE UNITED STATES.

MAY 3, 1886.—Ordered to be printed.

Mr. SPOONER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2298.]

The Committee on Claims, to whom was referred the bill (S. 83) for the relief of R. G. Combs and others, have examined the same, and beg leave to report:

That in 1875 the United States entered into an agreement with the Oregon Iron Works, an Oregon corporation, for the construction at Albina, Oreg., of the revenue cutter called Thomas Corwin. The contract price was $92,000, to be paid as the work progressed, in four equal installments. The contract gave to the Government the right to finish the vessel at the cost of the contractor, in case the latter failed.

The contractor made various subcontracts, and proceeded with the work, borrowing money for the purpose from the First National Bank of Portland, and making to the bank, to secure it for advances made and to be made, an assignment of the sum to grow due from the Government under the contract. The contractor received three installments, and before the payment of the last one failed and was adjudged a bankrupt. The bank at the time of the failure had advanced for the completion of the vessel upon the security of the last installment the sum of $18,399.96.

Upon the failure the United States took possession of the vessel and removed her to San Francisco, and finished her at a cost of $10,150.77, leaving a balance of the original contract price of $8,249.23, which was covered into the Treasury and carried to the surplus fund at the close of the fiscal year ending June 30, 1877.

A suit was brought by Coffin & Hendry, San Francisco, to recover for material furnished in rigging the vessel, $3,659.20.

The court held (1) that the United States did not become the owner of the vessel until completion and delivery after trial trip; (2) that the possession of the Government while the vessel was being completed was the possession of the contractor; (3) that the Government, in completing the vessel, was, under the contract, simply the agent of the contractor.

The committee are of opinion that the decision was right and in accordance with the terms of the contract, and they have, therefore, reported favorably at this session a bill giving to the First National Bank of Portland the surplus of $8,249.23, assigned to it as before stated.

The parties named in the bill are ship carpenters, painters, laborers, and firms who furnished material for the vessel. The labor and material all went into its construction. Some of them sought to enforce

against the vessel liens for labor and materials under the State law, but they failed because of the relation of the United States to the vessel.

Mr. Evans, a Treasury agent, reported upon the case in 1878, in which he says:

> The Corwin is really a valuable vessel, finely finished and her probable value is in excess of her cost.

Referring to the claims covered by this bill, he says:

> They are mostly due to poor men who feel the loss keenly, and it is hardly to supposed that the Government desires to avail itself of any technicality to evade payment to these, her citizens."

The committee think these people should be paid. They belong to class who cannot well afford to work for nothing. The claims have foundation in strict law, but have in them the strongest element equity. The probability is that the contract for the construction of vessel was too low, and the committee, having recommended the allowance of the surplus to the bank, which gives it not quite 50 per cent. of its advances, think the Government, should pay these claims for labor and material, of which it has had the benefit, at 50 cents on the dollar.

A similar recommendation was made by the committee at the first session of the Forty-eighth Congress, Mr. Manderson making the report.

The committee report a substitute which simply cuts down one-half the amounts named in the original bill, and recommend the passage of the substitute.

The committee recommend the indefinite postponement of S. 83.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 841.

IN THE SENATE OF THE UNITED STATES.

MAY 3, 1886.—Ordered to be printed.

SPOONER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1990.]

The Committee on Claims, to whom was referred the bill (S. 1990) to provide for the adjustment of matters connected with certain judicial proceedings in Pennsylvania in which the United States was a party, having duly considered the same, submit the following report:

The facts upon which the bill is based are set forth in a report in favor of a bill, identical in language, made by the Committee on Claims of the House of Representatives at the present session of Congress, which report is adopted, and is as follows:

In the opinion of your committee there can be no question but that honesty and justice require that this bill should be passed with the modification hereinafter specified. The object of the bill is to enable the Attorney-General to ascertain what amount would be a fair equivalent for valuable services rendered by William Ward to the Government, in the defense of attachments against the United States revenue marine steamer William H. Seward, in the court of common pleas of Delaware County, Pennsylvania, so that such amount may be paid. The records show that these suits extended over a period of two years, involved much labor and attention, and were successfully defended to a return of the vessel to the Government, and the defeat of the plaintiffs in the State court. Mr. Ward bore the burden of this litigation, and honestly and faithfully served the Government, which has received the advantages of his labors; and now to deny him whatever the Attorney-General may determine to be a fair equivalent could not be justified. The letter of Hon. John K. Valentine, the present United States district attorney, addressed to Hon. Benjamin H. Brewster, Attorney-General, under date of July 9, 1884, gives such a clear and connected statement of Mr. Ward's relation and services, gathered from Mr. Valentine's personal recollections as assistant United States district attorney at the time, and from the extracts from the official records in his office, that your committee have appended the same in full as part of this report.

As still further bearing on the equity and merit of this claim, your committee submit an extract from a letter of Hon. Henry S. Neal, Solicitor of the Treasury, under date of December 6, 1884, addressed to Hon. Hugh McCulloch, Secretary of the Treasury. While stating in substance that the claim would not in strict legal technical construction be payable out of current appropriations, Mr. Neal concludes as follows:

"I can, however, cheerfully state that in my opinion Mr. Ward rendered valuable services to the Government at the instance of District Attorney McMichael, supposing he was legally employed and would be fairly remunerated. I am further of the opinion he should be paid what his services are reasonably worth."

Your committee further state, that in the same year during which these suits were concluded, Mr. Ward was elected as a member of Congress in the sixth Pennsylvania district, and continued in that position consecutively for six years. During his term of service he refrained from presenting any bill of this character, and your committee indorses his course in that regard. Immediately after his retirement the claim was put in due course, and has been diligently followed since that time.

In the opinion of the committee it would be advisable to amend the bill by striking out the words "not exceeding three thousand dollars" in the fourth line, for the

reason that it might be construed that the committee meant to indicate their opinion to the Attorney-General that at least this sum was due, whereas the intention of the committee is to leave that officer free to fix any less amount that he may find proper.

Your committee report favorably, and recommend that the bill be passed with the amendment specified.

OFFICE OF THE UNITED STATES ATTORNEY,
Philadelphia, July 9, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of February 6, last, with inclosures in the matter of the application of Hon. William Ward for pay for services as special counsel in connection with the defense of suits and claims against the United States revenue steamer William H. Seward in 1874 and 1875, in the court of common pleas for the county of Delaware in this State. I am directed by you to make report (1) As to the employment of Mr. Ward. (2) As to the nature, extent, and value of his services.

It is true, as suggested by Assistant Attorney Howe in his letter to you, that I was assistant United States attorney at the time the services were rendered, but I had no personal knowledge of the details of the case in which Mr. Ward was employed. Col. William McMichael was at the time United States attorney, and this matter was attended to personally by him. The correspondence of this office, however, shows that Mr. Ward was employed and had charge of the case.

I inclose herewith a supplemental brief handed me by Mr. Ward.

The original and supplemental briefs and the records of this office and of the Treasury Department establish the fact that Mr. Ward was employed as counsel and did act as such. On this point see letter of March 16, 1874, of Colonel McMichael to Mr. Ward, in which he says, "Please take the necessary legal steps to have all the attachments at Chester dissolved against the United States revenue steamer William H. Seward. Please enter my appearance with you for the United States."

Also letter of Colonel McMichael, dated November 3, 1875, addressed to Mr. Ward, in which he says, "I find your note on my return to the city, and regret that I am not able to take part with you in the argument, but feel sure you will not need assistance."

See also extracts from letter from Colonel McMichael under date of December 3, 1883. He says: "I do not recall the name of the vessel, but your employment and services are distinct in my memory * * * your services were so valuable * * * that I attribute to them what I recall as a favorable termination of the case. Aside from the result, however, which I cannot state exactly from memory, you did all that any counsel could and justified my opinion in your selection, viz, that you were the best lawyer to have in the case."

Also letter of myself under date of September 4, 1875, to Mr. Ward. I was then assistant United States district attorney. I stated that "I had received his letter of the 3d instant, in regard to suits pending in your court, and requesting the attendance of certain witnesses at the time fixed for trial, and that I had that day forwarded a copy of the same to the Secretary of the Treasury."

I inclose herewith a copy of the letter of the Assistant Secretary of the Treasury to Colonel McMichael, dated September 18, 1875, acknowledging the receipt of my letter inclosing a copy of Mr. Ward's letter, stating that in accordance with the request of Mr. Ward, the witnesses would be in attendance with the papers. (See also letter of March 2, 1876, letter of Acting Solicitor of the Treasury of October 6, 1875, and of the Assistant Secretary of the Treasury of October 28, 1875.) Colonel McMichael states in his letter of January 29, 1884, that an officer came from the Treasury Department with a special view to this case. "I think he was chief of the Revenue Marine."

The files of this office show two letters from S. J. Kimball, chief revenue marine division, Treasury Department, to Colonel McMichael, dated March 14, 1874, also a telegram of same date, copies of which are herewith inclosed. In the postscript to one of these letters is the following: "Mr. Ward will explain why the Crawford is placed at your disposal. S. J. K." In the other are these words: "I have to request that you will take such steps as will most speedily put her at liberty, as it is important that she should take on board her outfit at the earliest possible moment and proceed to her station at Galveston, Tex. My business requires that I should return at once to Washington. You will please notify the Secretary of the Treasury of the action you may take."

From these letters it appears that Mr. Kimball had a personal interview with Colonel McMichael, and that Mr. Ward's name was referred to by him in connection with the case on the 14th of March, 1874, two days prior to Colonel McMichael's letter requesting Mr. Ward to act with him as counsel.

I inclose also a copy of the letter of Colonel McMichael, under date of April 27,

1875, to the Secretary of the Treasury, in which he refers to Mr. Ward as acting with him in the case.

There is no letter on file in this office directly authorizing the employment of Mr. Ward. In my opinion this is immaterial. Authority so to act may be implied as well as expressed, and this authority was clearly implied, as shown by correspondence of the Treasury Department (sec. 9, Opin., 148).

It is not necessary that the authority should be given before the service is rendered. (Same opinion; also U. S. *vs.* Duval, Gilp. Rep., 874.)

I might add that I have a recollection that Mr. Ward acted as counsel in this case. Of the details and nature of the service I have no knowledge whatever other than as appears from the papers and records to which I have referred. It is therefore impossible for me to give any information, other than appears by the papers and records, as to the nature and extent or to express my intelligent opinion as to the value of his services.

These services were rendered in a State court and at a distance from this city. They were rendered at the special request of the then district attorney, and with the knowledge of the Treasury Department, and, by implication, by its authority, and Mr. Ward should receive such compensation as the nature of his services and the time employed may be determined to be proper on an ascertainment of the facts as to the nature and value of these services.

I return herewith the inclosure of your letter.

Very respectfully, your obedient servant,

JOHN K. VALENTINE,
United States Attorney.

Hon. BENJAMIN HARRIS BREWSTER,
Attorney-General.

The committee think Mr. Ward entitled to be paid for the services so successfully performed, and see no reason why it should not be left to the Attorney-General to adjust the matter as provided by the bill.

The committee therefore report back the bill with the recommendation that the same do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 842.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 2332.]

The Committee on Military Affairs, to whom was referred the bill (S. 1615) "to authorize the Secretary of War to credit the State of Kansas with certain sums for ordnance and ordnance stores issued to said State, and for other purposes," have had said bill under advisement, and report the following bill as a substitute therefor, and recommend its passage, and that S. 1615 be indefinitely postponed:

[Forty-ninth Congress, first session.—In the Senate of the United States.]

The Committee on Military Affairs reported the following bill, as a substitute for S. 1615, which was read twice and placed on the Calendar:

A BILL to authorize the Secretary of War to credit the State of Kansas with certain sums of money on its ordnance account with the General Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to cause the State of Kansas to be credited on its ordnance account with the General Government with the sum of $24,448.50 for ordnance and ordnance stores drawn by the State of Kansas to aid the General Government in the protection of said State against Indian invasion and depredations.

The preamble to the Senate bill 1615, as originally introduced, *assumes* that the records of the Ordnance Bureau of the War Department show the State of Kansas to be indebted in the sum of $43,192.95 for ordnance and ordnance stores issued to that State during the years 1875 to and including 1879, and that ex-Governor Osborn, of said State, was charged with the sum of $21,310 for ordnance and ordnance stores issued to him during the same period, and that a large portion of said ordnance and ordnance stores had been lost and rendered useless. The bill S. 615 directed the Secretary of War to credit the State with the first-mentioned sum, and the said Governor Osborn with the amount last above stated.

Communications from the Chief of Ordnance of the War Department and from the Secretary of War, hereto annexed, marked A and B, respectively, which your committee ask may be made a part of this report, show that the aforesaid preamble to S. 1615 *is erroneous* in the matter of the amount stated to be charged on the books against Kansas for the purposes set forth in the preamble, to wit, to aid "the General Government in the protection of the borders of said State against Indian invasions and depredations."

On the contrary, the records appear to show that the charge against the State of Kansas for ordnance stores was, in 1874, $9,250, and in 1868, on recommendation of General Sherman, ordnance stores amounting to $15,198.50, in all $24,448.50, were drawn and issued by the General Government to aid Kansas in "the protection of the borders of said State against Indian invasions and depredations."

The books do not appear to show any charge against Governor Osborn. They do show a charge of $10,971.31, but it is not known whether *that* expenditure was for the (sole) purpose stated in the preamble to S. 1615 or not, and hence your committee do not consider it; nor is the substitute for S. 1615 herewith reported intended to embrace that sum.

For the reasons set forth your committee report herewith a substitute for S. 1615, directing the Secretary of War to credit the State of Kansas with the sum of $24,448.50 for ordnance and ordnance stores drawn for the purposes aforesaid.

A.

WAR DEPARTMENT,
Washington City, April 16, 1886.

SIR: In returning herewith Senate bill 1615, "To authorize the Secretary of War to credit the State of Kansas with certain sums for ordnance and ordnance stores issued to said State, and for other purposes," referred by you for information, and for such recommendations as I may desire to make with reference thereto, I have the honor to invite attention to the inclosed report, of the 13th instant, from the Chief of Ordnance.

The only investigation that I have made touching the credit to the State of Kansas of charges on account of ordnance stores, was made at the time chapter 303 of the acts of session 1 of the Forty-fourth Congress was under consideration by this Department. I was then of opinion it was intended by that act to credit Kansas with the full sum charged on the books of the Ordnance Department against the Territory of Kansas. Owing to the limited terms of the preamble and the general terms of the enacting clause the matter was not free from doubt. The Attorney-General, however, decided that the amount named in the preamble, viz, $11,425, was the only amount that could be credited to Kansas under the act. To the extent of $24,448.50, I should recommend the passage of a bill crediting the State of Kansas. Further than that, and in regard to the charges made to Thomas Osborn, governor of Kansas, I cannot make any favorable recommendation, for I have no means of information on the subject at my command in this Department, but I concur in the views expressed by the Chief of Ordnance, that the bill should be amended so as to credit the State of Kansas only with the sum of $24,448.50, thus relieving the State from the charges incurred in protecting its frontier.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. C. F. MANDERSON,
Of Committee on Military Affairs, United States Senate.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., March 13, 1886.

SIR: I have the honor to return letter of the 10th instant from Senator Manderson, of the Committee on Military Affairs, inclosing "S. 1615, being a bill to authorize the Secretary of War to credit the State of Kansas with certain sums for ordnance and ordnance stores issued to said State, and for other purpeses," and asking for information concerning the bill and recommendations thereon, and to report:

The *first* paragraph of the preamble is *in error* in stating that the State of Kansas is charged on our books with a total of $64,502.95 for ordnance and ordnance stores issued to Kansas and to Governor Osborn during the years 1875 to 1879, inclusive. *Our* books show issues of only $10,971.34 during that period, and it is not known

whether this expenditure was "for the sole purpose of aiding the General Government in the protection of the borders of said State against Indian invasions and depredations."

There is no charge against Governor Osborn.

The records of this office show, however, that—

In 1868, on the recommendation of General Sherman, and for the protection of the Kansas frontier, there were issued:

500 Spencer carbines, &c.=$15,198.50.

In 1874, on information from the Senators from Kansas that the Indians are attacking the settlers, "having killed several citizens, and that a general massacre is imminent," and asking for assistance, there were issued:

500 Sharps carbines, &c.=$9,250.

Making a total of $24,448.50.

I have the honor to recommend that the inclosed bill be amended by striking out all after the title of the bill, and substituting as follows:

"*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, directed to cause the State of Kansas to be credited on its ordnance account with the sum of $24,448.50, for ordnance and ordnance stores drawn by the State of Kansas to aid the General Government in the protection of said State against Indian invasions and depredations."

As so amended I recommend the passage of the bill.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The SECRETARY OF WAR.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 843.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5961.]

The Committee on Pensions, to whom was referred the bill (H. R. 5961) granting an increase of pension to Cyrus Vigus, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

Cyrus Vigus served in Captain Todd's company, First Regiment Kentucky Mounted Volunteers, in the war of 1812. He received an honorable discharge from said service on the 2d day of November, 1813. He served on the expedition to Upper Canada under the command of Governor Shelby.

The claimant is now receiving a pension at the rate of $8 per month, this being a service pension paid the veterans of said war of 1812. He has been an industrious business man, of good habits and economical expenses; but after the business age of his life was passed the competency so carefully husbanded had, with some misfortunes added to his unusual length of years, been consumed, and he now stands, at nearly ninety-three years of age, at that strait where charity must care for him, or the poor-house become his home, or his Government, in generous consideration, save him from such calamity by granting him a pension equal to the needs of his remaining years.

He was born on the 4th day of September, 1793, and the coming 4th of September will be his ninety-third year.

The petition filed with the bill for his relief is signed by the representative citizens of his home, Logansport, Ind.

This veteran, beginning his life in the wars for his country, has kept his patriotism, and has furnished four sons to the war with Mexico, one of whom, Captain Vigus, was the first man of Government troops to enter the conquered city of Mexico; and for the late war for the Union he furnished six sons, his entire family.

These sons are now all dead, save two, one of whom is a misfortune to his father, and the other, riddled with bullets, is a helpless cripple in the Soldiers' Home at Dayton, Ohio.

His family at home consists of his aged wife and the widow and daughter of one of his dead soldier sons.

In view of the foregoing facts, it is believed a pension of $50 per month should be granted the claimant.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 844.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6126.]

The Committee on Pensions, to whom was referred the bill (H. R. 6126) granting a pension to Henry G. Ballinger, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

It appears from the files in this case that claimant was detailed from the Forty-seventh Missouri Enrolled Militia to command a provisional company, organized under General Order 107, Department of the Missouri. That while thus engaged in Camden County, Missouri, in an engagement with the rebels, April 21, 1865, he received a gunshot wound in the shoulder. The affidavits of four credible witnesses as to the incurrence of the wound are on file. The report from the Third Auditor's Office shows that claimant was paid by the State of Missouri for his services, and that the State was afterwards reimbursed by the United States.

The claim could not be allowed in the Pension Department because it was not completed before July 4, 1874, as required in all cases of State militia.

There seems to be no question that this officer was acting under the orders of an officer of the United States Army, and that he was wounded as claimed.

Your committee therefore recommend the passage of the bill.

○

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 845.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6688.]

The Committee on Pensions, to whom was referred the bill (H. R. 6688) granting a pension to William Bishop, have examined the same, and report:

The facts in this case are fully set forth in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

That claimant enlisted in the Seventy-ninth Indiana Volunteers on March 25, 1865, to serve one year. On April 3, ten days after enlistment, he was admitted to post hospital, Camp Carrington, Indianapolis, Ind., with measles, which continued six weeks, and resulted in disease of eyes and weakness of the spinal column.

His claim for pension was rejected on the ground that measles were contracted before service, the medical referee of the Pension Office claiming that the disease must have been well advanced so that the diagnosis could be made at the time—*i. e.*, April 3, ten days after enlistment.

Claimant swears that he was under military orders for several days in the barracks at Terre Haute, Ind., prior to enlistment at Indianapolis, where he alleges he caught the measles.

Dr. Martin Flenner testifies—

"That he knew of his own personal knowledge that at the date of and prior to enlistment claimant was free from diseased eyes and spinal column. He is positive of claimant's prior soundness, as he was his family physician, and claimant worked as a laborer for him for several years."

Theodore Barnes testifies:

"I formed the acquaintance of William Bishop about the 20th day of March, 1865. While in camp at Indianapolis Bishop was taken sick with measles, and I helped to carry him to the hospital on or about the 5th day of April, 1865. I was soon after taken down with the measles, and was placed in the same ward and in the same bed with claimant, and know that said disease affected his eyes. I saw him just after he came out of the hospital, and his ears were discharging matter and his eyes were sore."

Nelson Shaffner testifies—

"That he was intimately acquainted with claimant for ten years prior to enlistment, and he was apparently free from all diseases. Is positive his eyes were perfectly sound. Has known him well since his discharge, and noticed that claimant was troubled with some disease of the eyes up to 1872, when he moved from affiant's town."

A number of affidavits are on file among the papers in the case which show that the claimant's eyes were sore at the time of his discharge and continue sore to the present time, the board of examining surgeons rating him one-eighth disabled for manual labor by reason of granulation of both upper eye-lids and conjunctivitis of same.

You committee believe that the claimant contracted measles after enlistment, notwithstanding the opinion rendered by the medical referee, and report the bill with the recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 846.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7298.]

The Committee on Pensions, to whom was referred the bill (H. R. 7298) granting a pension to Charles Schuler, have examined the same, and report:

The facts in this case are fully set forth in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

The claimant enlisted in Company K, Fourth Minnesota Infantry Volunteers, December 1, 1861. He alleges that while in the service of the United States and in the line of duty, at Vicksburg, Miss., July, 1863, he contracted disease of the stomach and liver and brain, and also cramps in the legs and arms.

Examining surgeon's report shows that the examination reveals the following facts:

"Enlargement of the liver and induration extending below margin of the ribs on right side and overlapping the stomach; sensitive to the touch; the skin of face yellow; abdomen flat and dark brown color; over right side harsh and dry enlargement of the spleen, which is apparently about 6 inches in longest diameter and 4 inches transverse; freely movable; claims that it changes in bulk, sometimes smaller. Then when severe pains ensue in the liver it enlarges. The condition of the liver and spleen is no doubt the result of malarial fever; has had, evidently, congestion of the brain; his intellect is much impaired at times; difficult to comprehend ordinary conversation; dullness of hearing, so as to require loud conversation in order to make him understand; pupils closely contracted. From the condition and history of the claimant it is my opinion the disability was incurred in the service and not aggravated by vicious habits. Soldier is entitled to three-fourths rating.

"E. H. LEWIS,
"*Examining Surgeon.*"

Claimant's physical condition is such that he is unable to furnish testimony other than that of Michael Engler and John Karcher, who testify to soldier's soundness prior to enlistment, and of Henry Kraus, who testifies that soldier was a well and sound man until he took sick in July, A. D. 1863, at Vicksburg, Miss. He was taken sick at Vicksburg in the month of July, 1863, after the surrender, and was taken to the general hospital. When I visited him he was not expected to live.

Said Engler and Karcher further testify to the continuance of disability of soldier from date of discharge to the present time.

Hon. H. B. Strait knows claimant to be a physical wreck and a pauper.

Your committee are of the opinion that this is a meritorious case, and that a man who served his country faithfully and well should not be allowed to depend on the cold charity of the world for subsistence. Therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 847.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7300.]

The Committee on Pensions, to whom was referred the bill (H. R. 7300) granting a pension to Randolph Seaman, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

The claimant enlisted as a private in Company H, Sixth Minnesota Volunteers, July 10, 1862; was discharged August 19, 1865. In claimant's application for a pension he alleges disability caused by affection of back from lifting in taking care of the sick in hospital, resulting in permanent weakness and disability.

"Claim rejected on the ground that there is no record of the alleged lame back, and claimant is unable to furnish medical or other satisfactory evidence while in the service or since his discharge."

Record in the Surgeon-General's Office shows soldier sick at Fort Snelling April 24, 1865. No further record of soldier's treatment found. There are no records of the regiment on file, nor of Forest City, Minn. Records of Fort Ripley, Minn., are incomplete. This office had no record of Fort Kingston, Minn.

Claimant states that he is unable to furnish medical testimony showing soundness prior to enlistment, as he was sound and healthy, and did not require the service of any physician at that time.

Daniel H. Crego, Oleo Olson, and Andrew J. Lockin all testify that they knew claimant prior to his enlistment and he was at his enlistment a sound, healthy man.

W. N. Hammond, of Rochester, Minn., testifies—

"That he had known claimant since 1858; that he worked for him ironing wagons and general blacksmith work, from about that time to his enlistment in 1862; that he was sound at enlistment and entirely free from any disease or disability."

Herman Hayner also corroborates the above testimony. William Brown, first lieutenant of soldier's company, testifies—

"That claimant contracted an affection of the back caused by lifting and taking care of the sick in hospital, causing permanent weakness and disability. He was at that time acting as ward master; knows these facts from being present at time and place mentioned."

Daniel H. Crego, comrade, testifies in substance to the same state of facts as Lieutenant Brown.

Claimant states that while in service and after his discharge he was treated by Dr. Potter, surgeon; that Dr. Potter is dead.

Adelbert Mason testifies—

"That he has been personally and intimately acquainted with claimant for eleven years; has worked with him in blacksmith shop at Rochester, Minn., for ten years; that since he has known him, claimant has suffered from lame back."

C. Williamson testifies—

"That ever since claimant was discharged from the service in August, 1865, has been his associate, and knows that during all the time he has been afflicted with lameness in his back to such an extent as to disable him from manual labor; that he has frequently seen him trying to work, and has worked with him, and knows above facts from personal knowledge."

William W. Beck's testimony corroborates that of Williamson:

The examiner of the Pension Office rates him one-half disabled for manual labor.

While there is a lack of medical testimony as to soldier's disability during the service, we think that his statement, uncontradicted, that he was treated while in and after the service by Dr. Potter, who is now dead, is sufficient to account for the want of this class of testimony.

The testimony of Lieutenant Brown, of claimant's company, and that of other comrades, we think clearly establishes claimant's allegation that he contracted the disability for which he claims a pension while in the service and in the line of duty.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 848.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6136.]

The Committee on Pensions, to whom was referred the bill (H. R. 6136) granting an increase of pension to John W. Farris, have examined the same, and report:

In this case the facts are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

Claimant enlisted in Company K, Forty-eighth Illinois Volunteers, October 23, 1861, and was discharged August 15, 1865. In 1881 he applied for a pension, alleging chronic diarrhea and general debility, which was allowed, and he was placed on the rolls and received a pension of $8 per month. September 4, 1885, he applied for an increase, alleging that in July, 1884, he was taken with sore eyes resulting from the long and aggravated general debility contracted in the Army. Upon this application the medical examiner in the Pension Department decided that "the disease of the eyes cannot be admitted to be a result of chronic diarrhea."

Dr. James McComb, a reputable physician of twenty years, testifies under date of January 27, 1886:

"I have frequently treated him for chronic diarrhea, and have known for many years that he was a sufferer from that disease; that in 1884, when he was first attacked with conjunctivitis, I, in connection with my partner, Dr. Billings, treated the claimant until he went to the city of Saint Louis for treatment by Dr. Michel, professor of ophthalmology in Missouri Medical College. That in my opinion his impaired vision and protracted eye disease is the result of a chronic constitutional disability."

Dr. James M. Billings, of Lebanon, Mo., testifies, January 27, 1886:

"I have often treated claimant for chronic diarrhea with which he was afflicted. That in 1884 when claimant was attacked with sore eyes, Dr. McComb and myself treated him until he went to Saint Louis for treatment by an oculist. That at the time I first treated the claimant for sore eyes, I attributed said disease to constitutional causes, and I am now, and ever have been from that time, of the opinion that his impaired vision and protracted eye disease is the result of a vitiated constitution."

Dr. Charles E. Michel, oculist, of Missouri Medical College, certifies "that he has been treating Senator J. W. Farris for chronic conjunctivitis with granulation since January, 1885, and that I am satisfied that a vitiated constitutional condition is to blame for his impaired vision and prolonged eye affection."

The examining board at Lebanon, Mo., report, October 21, 1885:

"We find the conjunctiva of both eyelids thickened and in a state of chronic inflammation. There is an opacity of the cornea of both eyes, resulting from ulceration, which is of the nebulous variety. The vessels of the conjunctiva of the cornea are very much enlarged. The opacity of the left cornea extends over the pupil and almost completely obstructs the vision. That of the right eye is less extensive, about two-thirds. He cannot distinguish the largest test type with the left eye, but with

the right can distinguish it at a distance of 17 inches. He is totally incapacitated for manual labor. He is in our opinion entitled to a second-grade rating for the disability caused by chronic diarrhea and resulting general debility and sore eyes."

His height is given as 5 feet 6 inches, and his weight is 115 pounds. Ordinarily your committee would feel reluctant in disturbing a decision made by the medical division of the Department, but in this case five physicians, one of them an oculist with an established reputation, declare in the most positive terms that, in their judgment, the disease of the eyes is the result of the disease admitted by the Department to have been contracted in the Army. Claimant enlisted when only fifteen years of age, served faithfully for four years, and was discharged with an incurable disease, which has carried thousands of his comrades to premature graves.

Your committee feel that in a case like this all hair-splitting should be waived, and therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 849.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R.6776.]

The Committee on Pensions, to whom was referred the bill (H. R. 6776) granting a pension to Catharine Theun, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

We find that claimant is the widow of George M. Theun, deceased, who was a private of Company D, Second Missouri Artillery, enlisting October 26, 1861, and discharged September 19, 1863. In 1877 the soldier applied for a pension, alleging rheumatism and resulting disease of the heart, which was allowed. November 19, 1880, the soldier died, and his widow applied for a pension, which was rejected on the ground that the disease contracted in the service was not the immediate and direct cause of his death. The evidence shows conclusively that the soldier was for many years a great sufferer from rheumatism and heart disease.

Dr. F. W. Wessler, president of the Saint Louis board of examining surgeons, testifies, September, 1881:

"That he has known claimant's husband for twelve or thirteen years as a neighbor, and that during most of the time he has been a sufferer from rheumatism, and that he was without means of support, except what his wife could earn at washing, and it became necessary for him to apply to the city medical department for treatment, and after leaving the city hospital Dr. Walter Wyman, now of the Marine Hospital Service, prescribed for him, and affiant's next door neighbor, a druggist, says that the prescription was refilled at least fifty times, and claimant's means becoming still more limited, he requested me to copy the prescription and certify to his destitute condition. This, affiant thinks, was in 1875. In 1876 his family lived two doors from affiant's office, where affiant could daily observe his inability to perform manual labor; that in October, 1880, he was taken sick with acute inflammation of the liver, of which he died November 19, 1880, and affiant believes that the inflammation of the liver was caused by the heart's insufficiency."

In a letter subsequently written Dr. Wessler says:

"I believe the disease of liver the result of chronic rheumatism and disease of the heart. The anchylosed condition of his feet and toes, as well as the valvular disease of the heart, prevented him from leaving his room for months at a time, preventing the proper distribution of the circulating fluid in the body, and thereby causing an afflux to the organs of digestion, which caused his death."

It is doubtless true that the immediate cause of his death was not from the rheumatism or heart disease for which he was pensioned, but Dr. Wessler's testimony is direct and positive that these disabilities did produce the fatal disease from which he died.

Your committee therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 850.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 550.]

The Committee on Pensions, to whom was referred the bill (H. R. 550) granting a pension to Adam Gaston, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

Adam Gaston was mustered into the military service of the United States as a private in Company D, One hundred and fortieth Indiana Volunteers, on October 17, 1864, and was honorably discharged July 11, 1865.

Claimant alleges that on or about the 1st day of January, 1865, while in pursuit of Hood's retreating army to Clifton, Tenn., through the mud, rain, snow, and freezing cold weather, he contracted a severe cold which settled in his left eye. The eye became very much swollen and inflamed, and continued so until his eye went entirely out, for which he was pensioned at $4 per month. His remaining good eye, after the lapse of several years, became weak and debilitated through sympathy with his destroyed eye, and in 1878 he lost the sight of it also, becoming totally and permanently blind. In 1879 he was placed on the pension roll, at $72 per month, for total blindness.

Claimant continued to draw this amount until 1885, when, upon information furnished the Pension Office, a special examiner was sent to the home of pensioner, and conducted a secret investigation which ultimately resulted in the suspension of soldier's pension.

The character of the testimony furnished by the special examiner, through which the foregoing result was obtained, is apparently good when viewed from a legal standpoint; but upon the grounds of equity, upon which this claim rests, an injustice has been done, as your committee believe, a man who became blind in consequence of his service to his country.

The grounds upon which the claimant's name was dropped from the rolls are, that his left eye was disabled prior to enlistment, and right eye disabled subsequent to service.

A number of witnesses testify that claimant was blind in left eye prior to enlistment. These witnesses appear to be reputable and entitled to credit; but the witnesses who testify as to claimant's soundness prior to enlistment are equally as numerous and equally as reputable and credible. The testimony in claimant's favor is very voluminous and quite positive.

Dr. William C. Sweezy, surgeon One hundred and fortieth Indiana Volunteers, testifies—

"That about the 1st day of January, 1865, while on the march from Columbia to Clifton, Tenn., I commenced treating Gaston's sore eye. The first appearance of the disease was a severe pain in the ball of the left eye, which was very much inflamed. I found the crystalline lens of the eye entirely destroyed. The eye continued in that con-

dition and very much inflamed until he was discharged. The sight of said claimant' eye was entirely destroyed. In my opinion the disease was induced by exposure an cold endured while in the line of his duty."

Charles Bevins testifies that Gaston, the claimant, worked for him about the yea 1857 or 1858, and to the best of his knowledge his eyes were in no way affected.

John H. Johnson testifies that he worked with claimant through the year 1860, an if there was anything the matter with claimant's eyes he did not know it.

Joseph B. Beatty testifies that he saw claimant frequently from the year 1860 t 1864; that claimant was not blind, so far as he knew, at time of enlistment.

Noah M. E. Rush, a comrade, testifies that he saw claimant continuously for som time preceding muster in service, and is positive that claimant's eyes were sound an in no way affected; that at Raleigh, N. C., claimant was suffering with inflammatio of the eyes, and was sent home on furlough on account of the same; that one of hi eyes was so swollen that it was almost impossible to tell the location of it; that h next saw him at Greensborough, N. C., after his return two months later, and th one of his eyes, he believes the left one, was totally destroyed.

Dr. George W. Haymaker testifies "that claimant came under his care and treat ment about the 10th day of June, 1871. His left eye was entirely blind, and his righ eye was weak, and appeared much debilitated, sympathizing with the left eye. Th optic nerve seemed to be losing its vitality, and the said right eye seemed to be get ting weaker and weaker until the summer of 1876, when I removed from his town His eye has since gone out, as I supposed it would finally do, from sympathy with th left eye."

While it is true that some doubts exist as to claimant's soundness prior to enlist ment, your committee believe that inasmuch as he was acceptable as a soldier, he should be given the benefit of such doubt, and recommend that the bill do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 851.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4976.]

The Committee on Pensions, to whom was referred the bill (H. R. 4976) granting a pension to Tobias M. Coon, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

That Tobias M. Coon enlisted in Company A, One hundred and eighteenth Regiment Ohio Volunteers, August 12, 1862, and was discharged July 5, 1865. He applied for a pension December 23, 1878, alleging disability from gunshot wound in left leg above the knee, received at the battle of Mossy Creek, in the State of Tennessee, December 29, 1863, which has caused continuous and permanent lameness. His claim was rejected February 2, 1885, on the ground that evidence in a special examination showed that claimant was not wounded in the service as alleged. This testimony was given by Isaac Coon and Tobias P. Coon, a brother and nephew of claimant, who were comrades, and in the action when the wound as claimed was received. They say after the charge, while standing in the ranks, they saw the hole in claimant's pants, but that the ball did not enter the leg. Tobias P. said he saw the spot about an hour after it was done; it was black, and about an inch wide; that claimant did not leave the company till May, 1864, when he was sick and sent to hospital, and contracted scrofula, to which he attributes claimant's lameness. The hospital records say claimant had "diarrhea acute," in May, 1864, and again, in November, 1864, intermittent fever; no mention of scurvy or scrofula. Isaac Coon says his lameness is caused by bone scurvy.

All the testimony agrees that claimant was struck or grazed by a ball at the time and place as claimed, and that the disability exists.

John W. Kincaid, lieutenant Company A, One hundred and eighteenth Regiment Ohio Volunteers, says, at a place called Mossy Creek, on or about the 20th of December, 1863, claimant received a gunshot wound of left leg above the knee, causing lameness of left leg; that he knows this fact from personal knowledge.

Surgeon William H. Philips states that he knew Tobias M. Coon, of Company A, One hundred and eighteenth Ohio; that he was surgeon of said regiment from September, 1862, to May, 1864; that in an engagement with the enemy near Mossy Creek, East Tennessee, December 29, 1863, claimant was wounded by the entrance of a ball upon the internal surface of the left knee-joint, just in front of the inner surface of the left hamstring; that said wound was dressed by him for some weeks, when claimant was sent to hospital at Knoxville.

Dr. P. B. Wright and Dr. William Clark both testify that claimant was lame in the left knee; that a scar, apparently made by a small ball or buck-shot, was plainly visible, and that a foreign body corresponding to such a ball could be felt back of the knee-joint. Dr. Wright says the ball seems lower by an inch or two than ten years ago when first examined by him.

From all the evidence in the case the conclusion of your committee is th prayed for in this bill should be granted. Whether the disability arises fr cause alleged, which the weight of evidence would seem to indicate, or from a as the brother and nephew say, the fact of disability as claimed exists and is n puted. There is nothing to show that good and faithful service was not rende this soldier. There is no claim of prior unsoundness; none that he was not of duty. If in filing his declaration he had claimed to be suffering from the v ills flesh is heir to, then, whether gunshot or scurvy, his just claim for a dis could have been allowed with arrears.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 852.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4631.]

The Committee on Pensions, to whom was referred a bill (H. R. 4631) granting a pension to Mary Merrill, have examined the same, and report:

The committee, after an examination of this case, are of the opinion that it is one worthy of relief, and adopt the favorable report (House Report No. 887) of the House Committee on Pensions, which is as follows, and in view of which the passage of the bill is recommended:

Claimant's husband enlisted as a private in Company L, Twelfth Regiment Tennessee Cavalry, April 19, 1864, and was discharged July 14, 1865. Died January 23, 1869. The soldier at the time of his death was a pensioner of the United States for disability contracted in the service of the United States and in the line of duty. Widow's claim was rejected on the ground that bronchitis, of which her husband died, was not the effect of disability incurred in the service and for which he was pensioned. The record of the Surgeon-General's Office shows that soldier was recommended for discharge at post hospital, Leavenworth, Kans., by reason of chronic hepatitis and varicose veins contracted since his last enlistment. Unfit for Veteran Reserve Corps. Disability one-half.

Officer's certificate of disability shows that soldier was "disabled on the march from Nashville, Tenn., to Tullahoma, Tenn., in the month of June, 1864. His horse fell with him and seriously injured him, since which date he has not been able to do duty as a soldier, and that he is disabled in the left hip and breast." This certificate is signed by J. C. Boyer, captain Company L, Twelfth Tennessee Cavalry.

A. P. Calaher, colonel commanding post, states in certificate of disability for discharge, that "this soldier has been a willing and obedient soldier, but has been afflicted for a long time on account of chronic hepatitis and varicose veins, contracted since his last enlistment."

Dr. W. D. Whitted, a reputable physician of Henderson County, N. C., testifies, under oath, that "he was personally acquainted with widow's husband, having attended him as his physician in his last illness; that he died of bronchitis contracted while in the United States Army; that soldier was always a devoted adherent to the Union cause, and during the war passed through the rebel lines and enlisted in the Federal Army."

In view of all the testimony of record in this case, regardless of the physician who attended soldier in his last illness, and whose testimony strongly corroborates the record testimony, your committee can easily trace the soldier's cause of death to the disability incurred while in the service of the United States and in the line of duty. They therefore unanimously recommend the passage of the bill granting the widow the pension she so richly deserves in her old age and great poverty.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 853.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1816.]

The Committee on Pensions, to whom was referred a bill (H. R. 1816) granting a pension to Mary Ann Miller, have examined the same, and report:

The facts in this case are fully sustained in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 780). In view thereof we recommend the passage of the bill.

Claimant's husband, Hamilton Miller, enlisted at the very outbreak of the war in the first call for three months' volunteers. He was mustered into Company F, Third Ohio Infantry, on April 27, 1861, and sent, with the regiment, to Camp Dennison, in the suburbs of Cincinnati. On June 3, 1861, he died from the effects of a blow administered to him in Cincinnati at the hands of some one whom the papers in the case do not identify, but by whom he was attacked.

The widow soon thereafter made application for a pension, claim No. 489, but it was rejected because soldier was not in line of duty, and because, as Commissioner alleged, there was insufficient proof as to his absence from camp being lawful. Upon the latter point we consider the proof ample. An excellent witness, Brazier Campbell, then residing at Cincinnati, testifies that he saw Miller in Cincinnati, and read his furlongh (or leave of absence), and that it was in due form, and properly signed by an officer; William Pepper, a comrade, also testifies, that when Miller started to Cincinnati, he told him (Pepper) that he had leave of absence to go to Cincinnati and Hamilton, the latter place being his home.

As to the soldier's death not occurring strictly and technically in the line of duty, it must be remembered that he was lawfully absent on leave, and pursuing his way home to visit his family. The war was then just begun, and the regiment had been in camp but five weeks. Matters were then more loosely transacted than at a later period of the war, when the citizen soldiery became inured and accustomed to the rules and regulations of war.

It seems unjust to discriminate against a worthy widow, now over sixty years old, and very poor, who was deprived of her husband, without his fault or wrong, and while serving faithfully (for a letter filed in the camp from his captain bears these words, "Ham was a good soldier"), on such a trivial technicality.

Your committee therefore report the bill favorably, with the recommendation that it do pass, with the following amendment, to wit: Strike out all after "pension-roll," and add "subject to provisions of the pension law."

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 854.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6780.]

The Committee on Pensions, to whom was referred the bill (H. R. 6780) granting a pension to Henry B. Havens, has carefully examined the same, and, adopting the House report, recommend the passage of the bill.

We find that claimant enlisted December 1, 1861, in Company I, Twenty-third Missouri Volunteers, and was discharged June 7, 1862, upon surgeon's certificate of disability, showing disease of lungs. In July, 1864, he filed application for a pension, which was rejected, on the ground that the disease existed prior to enlistment. A large amount of evidence has been submitted in this case. Two special examiners have thoroughly investigated it.

Several witnesses testify that claimant was apparently a well, strong man at enlistment. His father, a physician, swears that he was free from lung disease when he entered the service. Several witnesses testify that they did not regard him as a strong man, but considered that he was disposed to disease of lungs.

Lieut. George W. Easley, commanding the company, certifies, June, 1862:

"That claimant was not very healthy when he enlisted, but was able to do good duty, but the exposure to which he was subjected has hurried on consumption, which has rendered him unfit for duty for two months."

The surgeon also certifies that the disease existed in an incipient stage prior to enlistment. All the witnesses unite in speaking of the high character of the soldier.

From a careful examination of the evidence your committee conclude that claimant was a man of weak constitution, though in the enjoyment of fair health at the time he entered the service; that under the exposure and hardship incident to camp life he broke down and became a confirmed invalid. If he had been a robust man, with an iron constitution, he probably would have endured the hardships without physical injury. If he had remained at home it is equally probable that he mighl have enjoyed for years a fair measure of health. He is now unable to labor, and can live but a few months.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 855.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 424.]

The Committee on Pensions, to whom was referred the bill (H. R. 424) granting a pension to Giles C. Hawley, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

That Giles C. Hawley enlisted in Company L, Second Illinois Cavalry, on July 15, 1861, and was discharged November 14, 1861, for disabilities. His military record shows him with his company and regiment all the time from his enlistment until he was discharged at Fort Holt, Ky., on account of deafness.

The surgeon of the regiment certifies in the certificate of disability that he was so deaf that he could not hear an ordinary command, and had been slightly so during his service. In said certificate of disability Captain Delano, who was in command of said company, says that said Hawley is so deaf that he cannot hear an ordinary command, and that his hearing has been somewhat defective for several years, so he had been informed by Hawley's friends.

It appears from the evidence that Hawley had been engaged in the mercantile business at the town of Augusta prior and up to the time of his enlistment. A great number of his neighbors and those who had dealt with him for years just prior to his enlistment testify that his hearing was not defective prior to his enlistment. He swears himself that his hearing was good up to the time of his enlistment.

It also appears from the evidence that Hawley was not sick, and performed his duties as a soldier up to some two months prior to his discharge; that after a hard march and a great deal of exposure, the said Hawley caught a very severe cold, and from the effects of which he became very deaf, and never has recovered.

From the evidence there is no question but what said Hawley's hearing was reasonably good prior to enlistment; and that the cause of his great deafness is owing to exposure in the military service; he, being a merchant, probably was not so rugged and hardy as men engaged in other employment. The statement of Captain Delano was based on hearsay only; and admitting all that the surgeon of the regiment says in his certificate to be true, "that his hearing was slightly impaired during service," this, in the judgment of the committee, ought not to debar the said Hawley from receiving his pension for the actual injuries he did sustain in the service, which were due to exposure and hard service. But it appears from the evidence that the surgeon of the regiment was not acquainted with said Hawley prior to his enlistment, and as he had no occasion to treat him until after he had taken the cold referred to, and had become sick and deaf from its effect, it does not seem as though the statement of the surgeon in his certificate ought to overbalance a whole community who had known said Hawley and done business with him for many years prior to the war. Since his return from the war the evidence shows him to be so deaf that you can only make him hear by means of a trumpet of some kind.

Your committee is of the opinion that Hawley's deafness is due to injuries that he received while in the service of the United States, caused by cold and exposure while in the line of his duty, and that he is entitled to a pension.

We therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 856.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6655.]

The Committee on Pensions, to whom was referred the bill (H. R. 6655) granting a pension to Stokeley D. Dagley, have examined the same, and report:

The facts in this case are fully stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives.

In view thereof we recommend the passage of the bill.

The claimant in this case was a private in Capt. J. W. Younger's Clay County Missouri Militia, enlisting May, 1864, and discharged February, 1865. The files in the Third Auditor's Office show that he was paid for five months and twenty-one days of service. His application for a pension was rejected on the ground that he served in the State militia, and the law requires that claims of this kind must be proven before July 4, 1874. The evidence in the case shows that claimant contracted chronic diarrhea while in the service, and was discharged upon a surgeon's certificate of disability for that reason.

Dr. W. C. James, whose credibility is highly indorsed by the Hon. A. M. Dockery, of this House, testifies that he treated him for chronic diarrhea while in the service and after his return, and that he is now permanently disabled from the same cause.

Isaac Brooks testifies that he has not been free from the disease since discharge.

Dr. Samuel Sheetz testifies that he has treated him since 1872, and that he has suffered continuously since that time. The examining board at Saint Joseph, Mo., August 6, 1884, report him totally disabled; that he is 5 feet 5 inches in height and weighs 112 pounds. Under existing laws the Pension Department cannot allow this claim because the soldier was in a State organization. He did the same service, fought in the same battles, endured the same hardships, and suffered from the same disease, under the command of the same officers, and received the same pay as those who were mustered into the volunteer service from that State.

Believing that he ought to be placed on the same pension-rolls, your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 857.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3906.]

The Committee on Pensions, to whom was referred the bill (H. R. 3906) granting a pension to Catherine Johnson, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

The claimant is the widow of Zachariah Johnson, who enlisted in Company C, Sixtieth Regiment Indiana Volunteers, at Evansville, Ind., December 3, 1861. The Adjutant-General reports that upon special muster-roll of August 18, 1862, the soldier is reported as having drowned himself in Green River, Kentucky, July 2, 1862, while insane.

The widow's claim, filed June 6, 1863, has been rejected by the Pension Office on the ground that the evidence fails to show that the soldier's death is chargeable to his military service.

Captain Nash, of the company, testifies that in April, 1862, the soldier was granted a sick furlough to return to his home in Posey County, Indiana, and that while returning to his command from said furlough was drowned in Green River, Kentucky; remembers distinctly the granting of this furlough, and knows it was in April, 1862, but cannot now fix definitely the date of the month. He further states that on several occasions during the latter part of his service in the company soldier exhibited signs of insanity, and had on one occasion attempted to take his life by cutting his throat, and believes that he drowned himself in a fit of delirium.

William Ouman testifies that he was with the soldier on his return to the regiment, and that on July 2, 1862, near Ashbysburg, Ky., on Green River, Kentucky, the latter was ordered by the affiant, acting as sergeant, in command of the squad, down said river in a skiff to ascertain the location of certain of the enemy's forces reported in that vicinity. The skiff was afterwards found containing the soldier's blouse, but soldier did not turn up, and it was the general belief that he was then and there drowned. Being compelled to move on next morning, no search was made for the body. Affiant also corroborates the statement of Captain Nash as to Johnson's mental condition a short time previous to the supposed drowning.

Col. Richard Owen and twelve other officers and enlisted men of the soldier's command testify that they were well acquainted with him prior to his enlistment; that he was a good citizen, and a good and faithful soldier while with his command, and of amiable disposition, strongly attached to his family and home; that they have every reason to believe that he was drowned while in a boat on Green River, Kentucky, in July, 1862, and that had he been alive subsequent to that date he would have returned to his family.

Sixty-five other citizens of Posey County, Indiana, testify to the high character of the soldier and of his widow, and ask that a pension be granted to her, she being old and in need of assistance from the Government.

Your committee have given the evidence above referred to careful consideration, and have become fully convinced that the soldier came to his death while returning to his command from sick leave, and while actually obeying the order of his superior officer. Whether the drowning was accidental or of his own act must necessarily remain in doubt, although the evidence points toward the latter.

The claimant is evidently worthy of the relief asked for, and having lost the support of a kind and affectionate husband while in the service of his country, your committee believe that she is entitled to the benefit of whatever doubts may exist in the case, and therefore report favorably on the bill, and ask that it do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 858.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 567.]

The Committee on Pensions, to whom was referred the bill (H. R. 567) granting a pension to Mary A. Little, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives hereto annexed, and recommend the passage of the bill.

William H. Little was enrolled as a private in Company G, Forty-third Indiana Volunteers, on October 12, 1861, and served until honorably discharged on March 15, 1865. He was twice in hospitals for treatment of wounds while in the line of duty prior to April 24, 1864, when in an engagement at Mark's Mill, Ark., he was again wounded so severely that he was discharged from the service.

Thomas J. Sweeney, assistant surgeon, states in soldier's discharge papers that the gunshot wound received at Mark's Mill, Ark., injured the shaft of the femur, causing sloughing and exfoliation of the bone, and his recovery is remote and doubtful.

Jonathan M. Johns, first lieutenant of Company G, Forty-third Indiana Volunteers, states in soldier's certificate of disability for discharge:

"He (soldier) was severely wounded at Mark's Mill, Ark., April 25, 1864, and has never been able for duty since. I give it as my opinion that he never will. He has always been a willing and obedient soldier."

Shortly after soldier's discharge from the service he was granted a pension of $6 per month, which was afterwards reduced to $4 per month, but again increased to $6, which he was drawing at the time of his death, November 11, 1883. His widow, on November 30, 1883, filed a claim for widow's pension. Said claim was rejected on the ground that the disease which caused her husband's death was not due to his military service.

This conclusion in the Pension Office was almost inevitable, owing to the ignorance and carelessness of the physician who attended soldier in his fatal illness, he not being able to give a pathological connection of disabilities and death.

Dr. J. C. Gifford, of Brazil, Ind., eminent in the practice of medicine and surgery, testifies—

"That he was acquainted with soldier for thirty years; knew he was sound before entering the service, and treated him previous to his death. He was suffering from dropsy of the scrotum and lower extremities; tapped his scrotum and prescribed for him. Examined him at the time and found that he had received a terrible gunshot wound in the right thigh, and I was entirely satisfied that all his troubles were the result of said wound. I am perfectly and completely satisfied that his death was caused by reason of wound received in line of duty."

Dr. M. J. Dillman testifies that he visited soldier several times before his death. He was afflicted with general dropsy, caused by anemia and impoverishment of the blood, which he considered was caused by the effect of several gunshot wounds.

Dr. Byers testifies that soldier had abdominal dropsy, and that the swelling of the wounded leg extended toward the body.

Sixteen members of the Grand Army of the Republic post to which deceased so belonged, in a petition in behalf of widow, use the following language:

"Soldier received several wounds during his service, the bullets remaining i body. His injuries steadily followed their course, resulting in constantly-incre debility, until he became a sufferer from general dropsy, from which he died. cannot trace the pathological connection, but it was the generally expressed opi that if soldier's regular family physician had possessed the business capacity to pare an affidavit in his own handwriting showing the precise facts the claim w not have been rejected."

It is quite evident that the claimant is entitled to a pension, and your comm recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 859.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1576.]

The Committee on Pensions, to whom was referred the bill (H. R. 1576) granting a pension to Thomas Allcock, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

It appears that the petitioner is an invalid soldier of the Seminole war, having served as private, Company F, Third United States Artillery, and honorably discharged after three years' service. He applied for pension in 1852, and was informed that claim was not admissible on the proof under general law. On the 21st of June, 1872, there appears to have been an application filed by him, alleging "that he served in said Florida war three years; that he received a sunstroke while in said service, and while on duty as sentry on the 6th day of July, 1839; and that Thomas Haley, mentioned in the annexed affidavit, was present at the time; that in consequence of such sunstroke he was totally blind for six days, and has lost the sight of one eye entirely; that a written discharge was granted him by Maj. Thomas Childs, at Fort Pierce, Florida, which is in the Department at Washington, filed on application for bounty land."

The adjutant-General's Office reports him sick in hospital at the time alleged by him; and there is ample proof in the case to show that it is a just and meritorious one, well worthy of consideration.

The Committee on Invalid Pensions, House of Representatives, reported favorably in the case as far back as February 4, 1858, and say then:

"For this permanent injury to his eyes, rendering them perfectly useless for the remainder of his life, received in the service of his country, the committee think he is justly entitled, in some degree, to the consideration of the Government."

It appears that an act was passed by the Forty-seventh Congress granting a pension to this soldier at the rate of $8 per month, dating from March 2, 1883, the date of the approval of the act therefor.

It appears that the man is now seventy-two years old, has a wife, and that they are in utterly dependent circumstances in consequence of his blindness, which is now total. He requires the attendance of some person at all times in going about, and has no means. It appears conclusively that the soldier contracted his disability in the Army and in the line of duty.

Your committee beg leave to refer to the petition of the said soldier hereto annexed, and to the affidavits of the claimant, and of Robert Y. McConnell, a reputable citizen of Rochester, annexed.

In conclusion, your committee recommend the passage of the bill.

To the honorable the Senate and House of Representatives of the United States:

Your petitioner, Thomas Allcock, of Rochester, in the State of New York, respectfully shows to your honorable body that he was a soldier of the United States Army in the Seminole war, having enlisted in December, 1836, and was discharged in December, 1839. That his honorable discharge from that service is now on file in the Pension Office at Washington. Your petitioner further shows that while in the service, and shortly before his discharge, he was prostrated by a sunstroke, from which he has never recovered. That in consequence of that sunstroke he was made blind, and has remained so up to the present time. That by reason of his blindness he has been unable to do anything for the support of himself and family, and much of the time has been supported at public expense. That he repeatedly applied for a pension, and none was ever granted him until, in the last session of the Forty-seventh Congress, an act was passed, which became a law, giving him a small pittance of $8 per month, from the date of the passage of that act. This sum is insufficient for his support, and considering the long period of time during which he should have been paid a pension he submits to this honorable Congress that he should either have an arrears of pension allowed him, or, if that cannot be done, that the amount of his pension should be increased. His disability is total, and he is compelled to have the attendance of some person to feed him and take care of him. Under the rule of rating pensions in such cases, he is informed and believes that he could not have less than $24 per month at the lowest rate allowed for pensions to private soldiers. He has never had any gratuity from the Government except a bounty land warrant for 160 acres of land, for which he got $110.

He therefore prays that Congress of the United States will increase his pension to at least $50 per month. He is now seventy-two years of age, and the time during which the Government will have the privilege of paying him a pension will in all human probability not be very great.

And your petitioner will ever pray.

THOMAS ALLCOCK.

JANUARY 4, 1886.

In the matter of the application of Thomas Allcock.

MONROE COUNTY,
City of Rochester, ss:

Thomas Allcock, being duly sworn, says he is now seventy-two years of age; that he is and has been totally blind for the last forty-six years in the right eye, and that for the last two years the left eye has become so bad that deponent is now unable to see scarcely anything at all; that he has to be led around as if he were totally blind, and especially so when the sun is not shining brightly; that deponent is a married man, and his wife is still living; that she is in feeble health and unable to work and support herself and deponent; that deponent has no means whatsoever of earning his living, and is in the most destitute circumstances imaginable.

THOMAS his + mark. ALLCOCK.

Witness:
GEORGE R. LOSEY.

Sworn to before me this 15th day of February, 1886.

GEO. R. LOSEY,
Commissioner of Deeds, Rochester, N. Y.

STATE OF NEW YORK,
Monroe County, Clerk's Office, Rochester, N. Y.:

I, Maurice Leyden, clerk of the county of Monroe, of the county court of said county, and of the supreme court, both being courts of record, having a common seal, do certify that George R. Losey, esq., the person before whom the foregoing affidavit was taken, was, on the 15th day of February, 1886, therein mentioned, a commissioner of deeds, in and for said city, duly authorized to take the same; that I am well acquainted with the handwriting of the said George R. Losey, and verily believe that the name of the said officer subscribed to the said certificate is his genuine signature.

In testimony whereof I have hereunto set my hand and affixed the seal of said county and courts this 15th day of February, A. D. 1886.

MAURICE LEYDEN, *Clerk.*

In the matter of the application of Thomas Allcock.

MONROE COUNTY,
City of Rochester, ss:

Robert Y. McConnell, sworn, says he has known said Thomas Allcock for over thirty years, and is well acquainted with his circumstances at present; that said Allcock is so blind that he cannot get around only as he is led; that he is in destitute circumstances and without any means of support; that he has a wife who has to work all she is able to to support herself and said applicant; that said Allcock is a most worthy man, and needs all the help that he can get to support him in these, his last days.

ROBT. Y. McCONNELL.

Sworn to before me this 15th day of February, 1886.

GEO. R. LOSEY,
Commissioner of Deeds, Rochester, N. Y

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 860.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 515.]

The Committee on Pensions, to whom was referred the bill (H. R. 515) granting a pension to Althea A. Frasner, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives hereto annexed, and recommend the passage of the bill.

The claimant is the widow of Milton Frasner, who served in Company H, Fortieth Regiment Indiana Volunteers, from December 1, 1861, to December 21, 1865. On June 27, 1864, while engaged in battle near Marrietta, Ga., he was wounded in his left hand, which resulted in the loss of the second finger of said hand, and for which he was granted a pension November 24, 1866. In 1875 he applied for an increase of pension on account of a wound of right breast, received at the battle above referred to. During the pendency of this claim for increase, February 6, 1878, the soldier died of abscess of right lung, alleged to have been caused by the aforesaid wound of breast.

In support of this allegation, the following testimony has been filed:

David Bryan, late lieutenant of claimant's company, testifies that he knows of his own personal knowledge that Milton Frasner, while in battle of Kenesaw Mountain, Georgia, received a gunshot wound of left hand, and at the same time was struck by a ball in the right side, the ball striking a pair of pocket-scissors carried by the soldier in his side pocket, causing a contused wound, which finally developed into a running sore. There is no evidence of medical treatment for this wound while in the service.

Dr. Robert E. Charles testifies that at date of his discharge soldier was suffering from an abscess of right side. The intercostal muscle was injured, as affiant then understood, by a musket ball striking a pair of scissors in soldier's vest pocket, causing inflammation, followed by suppuration. The abscess became phagedenic, growing larger every year, until it produced anemia, thickening of the cellular tissues, assimilating dropsy, and finally death.

The La Fayette board of examining surgeons, under date of January 3, 1877, certify that they find discharge of pus at seat of injury in side, dullness on percussion over right lung, cough, sputa yellowish green, streaked with blood. Soldier is anemic. Disability equivalent to loss of limb.

The widow's claim has been rejected by the Pension Office on the ground that the immediate cause of death—disease of lungs—is not shown to be chargeable to the service.

Your committee, however, are of opinion that the receipt of injury to right side in the service is shown, and that the testimony of Dr. Charles, who was soldier's attending physician from date of discharge to his death, fully sustains the widow's allegation that the soldier's death was caused by said injury, and therefore report favorably on the bill for her relief, and ask that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 861.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4490.]

The Committee on Pensions, to whom was referred the bill (H. R. 4490) granting a pension to H. W. McDonald, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

That the claimant, H. W. McDonald, enlisted as a private in Company A, Fifth Iowa Volunteers, July 15, 1861, and was discharged April 19, 1863. His application for pension was rejected on the ground "that disease of heart existed prior to enlistment." This theory seems to have been based entirely upon the statement in his certificate of disability for discharge, that he had "hypertrophy of the heart, of several years' standing, and had been unfit for duty most of the time since he enlisted."

Claimant furnishes testimony of six respectable witnesses, physician, neighbors, schoolmate, comrade, and lieutenant of his company, that he was perfectly sound and healthy prior to and at the time of enlistment.

The certificate on which he was discharged proves conclusively the existence of disease *in* service; continuance since is clearly proven by both medical and lay testimony.

Two special examiners were sent out by the Department, and twenty five witnesses examined. Many of them testify positively to prior soundness; "that at enlistment he was a boy of seventeen, robust, full of health and vigor." Some of them did not know his condition then; and only one—a doctor, who *thought* he had prescribed for him on account of heart disease in 1861—gave any testimony indicating existence of disease prior to enlistment.

Capt. Willian Dean, who signed his discharge with the statement as to prior existence of heart disease, testifies in examination by special examiner upon this point:

"Perhaps I was a little rough on him at that time. I did not know him prior to service. He had been appealing to me for a discharge, claiming heart disease. We expected active service at that time, and I wanted to get rid of this class of men, and I discharged him."

Without quoting further from the voluminous testimony, your committee are very strongly of the opinion that this explanation of Captain Dean, together with the fact that examinations were quite strict in those early days of the war, the extreme youth of soldier, and his service of nearly two years before discharge, are amply sufficient to overcome the evidence of prior disease in his certificate of discharge, and to warrant the relief by Congress, which the Pension Office, following the strict letter of the law, did not feel authorized to grant.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 862.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6003.]

The Committee on Pensions, to whom was referred the bill (H. R. 6003) granting a pension to John H. McClelland, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

That John H. McClelland enlisted on the 22d day of August, 1862, in Company B, Twenty-ninth Regiment Iowa Infantry, from which he was discharged August 1, 1865. He filed application for pension May 12, 1884, alleging that he contracted disease of eyes and back at Little Rock, Ark., in November, 1864, from exposure; claim was rejected January 26, 1886, for the reason "not disabled in a pensionable degree from causes alleged since date of filing claim." Proof of prior soundness is abundant and clear; proof also of existence of sore eyes and lame back in service is conclusive. Dr. W. L. Nicholson, surgeon of the regiment, writes:

"Said McClelland had very sore eyes, and was often at sick-call."

Lieut. I. M. Warren, commanding company, testifies to same fact, and that he was a good and faithful soldier. Comrades Jesse Endicott and Charles F. Wills, in joint affidavit, testify that—

"At or near Little Rock, Ark., John H. McClelland was taken down with lameness in back, and was off duty for a considerable time; that after that he was frequently off duty on account of his back, and since discharge have been with him frequently, and know that he is afflicted the same with lameness in his back."

Continuance of disease of eyes and lameness of back is proven by several neighbors and two physicians, all certified to as men of high character and good repute.

The full examining board, at Atlantic, Iowa, on October 29, 1884, on a "test examination ordered by the Pension Department, say:

"This man is poorly nourished; vision in right eye is impaired about two-thirds, and left about one-half, cornea and conjunctiva are clear; opthalmoscope shows a total absence of characteristic red color of fundus, but in its place a dark back ground, splashed with white blotches, like silvery clouds against a dark sky; left eye a faint red color, otherwise a negative result of examination; claims tenderness over kidneys; no other trouble along back; enlargement of left ventricle and regurgitous murmur; intermittent action of heart; urine 1024, slightly acid, cloudy on boiling, clears up on addition of acid. We think he has Bright's disease with retinitis, and rate him, for disability caused by disease of kidneys, total."

There seems to be no question of present disability, nor of its existence in and continuance since the service, and the only possible ground for rejection seems to be that claimant did not allege the correct cause.

Your committee believe that it is fair to presume that the lame back and sore eyes, alleged by claimant, were the same disabilities that the examining board pronounced "disease of kidneys with retinitis," and think he is entitled to a place on the pension-roll, and therefore recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 863.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3982.]

The Committee on Pensions, to whom was referred the bill (H. R. 3982) granting a pension to John Pennington, have examined the same, and report that after careful examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

John Pennington enlisted in Company A, Twenty-fourth Regiment Kentucky Volunteers, on November 21, 1861, and was discharged therefrom May 9, 1862, by military board of Kentucky, and re-enlisted as captain in Company A, Forty-seventh Regiment Kentucky Volunteers, on October 5, 1863, and was discharged therefrom December 26, 1864.

He filed claim for pension on June 4, 1879, based on disease of lungs resulting from cold, and disease of lungs and cough and pain in breast, and varicose veins and disease of both legs, resulting from service and exposure and typhoid fever contracted while in service and in line of duty. His claim was rejected on the ground that claimant was not in service of the United States when he incurred disability for which he claimed pension, as shown by the Adjutant-General.

This decision seems to be based on the fact that he was never mustered into the service of the United States during his first service aforesaid, and during which time he seems to have had an attack of fever which rendered him unfit for military duty at time of first discharge, but from which disability he recovered.

He is shown to be perfectly sound and free from disease at time of his enlistment, and the fact is well established that he was sound attime of his second enlistment.

He served as captain of Company A, Forty-seventh Kentucky Volunteers, in the service of the United States, from October 5, 1863, to December 26, 1864, during which time he incurred the diseases from which he has suffered ever since his discharge. While it is not altogether improbable that his present state of health may be in some remote way connected with his first service, your committee find from the evidence that his last service was unquestionably the immediate and direct cause of his present enfeebled condition and broken health. If there was any room for doubt on this subject your committee believe his long, faithful, and honorable service for his country would entitle him to the benefit of the doubt.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 864.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5995.]

The Committee on Pensions, to whom was referred the bill (H. R. 5995) granting a pension to David T. Elderkin, have examined the same, and report that after a careful examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

That David T. Elderkin was enlisted in Company K, One hundredth Illinois Infantry, August 5, 1862, and discharged June 11, 1863. At battle of Stone River, December 31, 1862, was slightly wounded on the side of the head by a shell, which he claims materially injured his hearing, and from which he has become almost entirely deaf; was taken prisoner on same day, and taken to Richmond and confined for forty-one days in Libby Prison.

His application for pension was rejected on the ground that disability existed prior to enlistment. A large amount of testimony has been taken in this case by two special examiners, and it is clearly proven that claimant was slightly deaf at enlistment, but not to such a degree as prevented his acceptance into the service by examiner. It is also proven by Comrade Peter M. Chilson, who was a prisoner and saw him the next day after the battle, that his deafness was very much worse then than before the battle. There is also hospital record of the wound.

He claims to have a roaring sound in his ear like musketry or artillery, which has existed ever since the wound was received, but with greater severity in last four years. And it is clearly proven that his mind is very much affected, at times seriously deranged, supposed to have been caused by this constant singing in his ears. Medical examining board at Warrig, Iowa, July 30, 1885, find him almost totally deaf, and also say, "We rate him on the subjective symptoms only, viz, injury to jaw, and resulting hypersesthesia of the brain and nerves, $\frac{4}{5}$, total."

Admitting that claimant's hearing was defective before enlistment, his wound and imprisonment are clearly established. His present disability is distressing, and can very reasonably be attributed to the wound received in battle.

Your committee, therefore, believe he has earned a place on the pension-roll, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 865.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1585.]

The Committee on Pensions, to whom was referred the bill (H. R. 1585) granting a pension to Margaret Colbath, have examined the same, and report:

That after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

The soldier, John D. Colbath, husband of claimant, was pensioned for double hernia—the origin of such injury in service being clearly established—and drew pension up to the date of his death, June 5, 1881.

The widow filed claim as such, which was "rejected on the ground that soldier's death was not due to the hernia for which he was pensioned," and the record shows that her claim was "rejected June 29, 1885, solely on action of the medical referee."

Dr. H. G. Chamberlain testifies December 19, 1881, that soldier was suffering from double hernia, and first treated him May 20, 1880.

"In August following found him with a high fever and considerable inflammation about the abdominal ring on left side, and complaining of numbness of lower extremities; was called to see him at various times until he died, and found him gradually losing the power of motion, and believe him to have been a constant sufferer from said ruptures."

On March 7, 1885, he further testifies (being then a resident of Harmonsburg, Pa.):

"There was every indication that the inflammation extended to the peritonea and also to the bladder. This would produce the numbness or paralysis in his lower extremities of which he complained. The inflammation continued, the paralysis extended upwards, and he gradually lost the power of motion. Hence I consider the prime cause of said Colbath's death was the hernias."

In a later affidavit, dated Harmonsburg, Pa., May 28, 1885, Dr. Chamberlain continues:

"There was general inflammation of the whole abdominal viscera, including the bladder. In regard to gangrene I claim there was a general mortification, as he turned black immediately after death."

Dr. Chamberlain is vouched for as a reputable and creditable person, and entitled to credit and belief as a witness.

Your committee, after carefully reviewing the evidence in this case, recommend that the claimant be granted the relief asked for and that the bill do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 866.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 413.]

The Committee on Pensions, to whom was referred the bill (H. R. 413) granting a pension to George Schaefer, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives hereto annexed, and recommend the passage of the bill.

George Schaefer, the claimant, enlisted August 15, 1862, in Company B, Ninety-ninth Regiment Illinois Infantry, was transferred to Company K, and was honorably discharged June 15, 1863, on account of being disabled for service. He claims a pension on account of heart disease, contracted while in the service, from being overheated while acting as butcher for the regiment. His discharge shows that he was discharged for general disability, and that there was no objection to his re-enlistment. Claimant's application for a pension was rejected September 4, 1882, on the ground that the disability existed prior to enlistment. The military record of said claimant shows that the disease existed prior to enlistment.

Surgeon Ledlie, who signed the certificate of disability on which the record was made, on being examined by special examiner in this case, testifies that the "disease was only functional, but he made it organic disease of heart in order to get rid of the soldier."

A. E. McNeill, M. D., says he has been a practicing physician for thirty years; that he was assistant surgeon of said regiment, and was in said service acquainted with said Schaefer; that while said regiment lay at Salem, Mo., in October, 1862, said Schaefer was sick and unable for duty, which, he said, was produced from overheating himself while working in the commissary department. Affiant treated him in September following, and his condition was then such as might well be produced from the cause stated.

Dr. E. B. Stoner testifies that he was the family physician of the said Schaefer from 1856 to 1861; that he did not have any heart disease.

It is proven by the evidence of Drs. Beadles, Scroggs, and others, that ever since the return of the soldier from the Army he has been troubled with heart disease which has resulted in fits similar to epileptic fits.

A large number of witnesses testify to the soundness of said Schaefer prior to his enlistment.

Gottfried Wenzell testifies that he enlisted in and was orderly sergeant in said company, and was with said Schaefer and knew his condition in the service; that Schaefer worked in the commissary department; that in October, 1862, said Schaefer was prostrated to unconsciousness, and had spells or spasms in which he was blind and faint and lost all control of himself, and was not afterwards fit for military duty.

Dr. A. B. Cobb testifies that from 1856 to 1861 he lived and practiced medicine in the same town where Schaefer lived; saw him frequently, and that Schaefer was a sound, healthy man.

Dr. George P. Rex, sergeant Thirty-third Illinois Regiment, says he lived in same town with Schaefer from 1856 to 1861, and was Schaefer's family physician, and saw

him frequently, and he did not know of his having heart disease of any kind, but that he was an able-bodied man; that he met Schaefer in his regiment in the fall of 1862, doing duty; that during the Vicksburg campaign Schaefer came to him as a neighbor and medical adviser; that he examined him, and gave him a certificate of disability.

Dr. Harvey Dunn testifies that he resided in the same town with Schaefer from 1856 to the time he enlisted, and saw him frequently during that time, and that he was a sound, able-bodied man at the time of enlistment, and did not have heart disease, in his opinion.

Your committee are clearly of the opinion that the record made by officers in said Schaefer's regiment of the existence of heart disease prior to enlistment was untrue and made with a motive of getting said Schaefer dismissed from the service, and that said Schaefer contracted heart disease while in the service and in the line of his duty.

Your committee recommend that said bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 867.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4462.]

The Committee on Pensions, to whom was referred the bill (H. R. 4462) granting a pension to Martha Downs, have examined the same, and report that after examination they have adopted the report of the House Committee on Invalid Pensions, hereto annexed, and recommend the passage of the bill.

[House Report No. 1538, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4462) granting a pension to Martha Downs, submit the following report:

Albert Downs, the husband of Martha Downs, enlisted as a private in Company H, Fourteenth Regiment Illinois Volunteers, and was mustered in as corporal February 17, 1865, and was mustered out the succeeding June 13, 1865. He died August 8, 1875, leaving a widow, the claimant, Martha Downs, and five children, as follows: Bailes, born June 30, 1860; Edith, born December 18, 1863; Abbie, born September 26, 1869; Horace, born July 31, 1872; Maud, born September 24, 1874.

It is clearly proven that he was a sound, able-bodied man prior to his enlistment, of temperate habits, and prudent in his manner of living, both at home and in the service. Also that he was in poor health from the time of his discharge until his death, and during the latter period of his life was unable to labor to any great extent. This is testified to by James B. Patton, William Livingston, A. S. Livingston, John Elson, Ames Edwards, and Arthur Livingston.

The record shows that he was reported on the muster-roll April 30, 1865, as sick in hospital at Camp Butler since March 9, 1865. The Surgeon-General reports him admitted to hospital at Camp Butler, Springfield, Ill., on March 11, 1865, with erysipelas. Was again admitted with peritonitis June 1, 1865.

His comrades, Lewis Hines and J. B. Patton, testify that he was taken sick with erysipelas at Camp Butler about March 10, 1865. Patton says that his arm was badly swollen, and that from the time of Patton's return from the Army to the soldier's death he saw him frequently, and that he was unhealthy. Dr. M. M. Eaton testifies that he treated him for erysipelas frequently from March to May, 1865.

Daniel Ballard testifies—

"That he saw him as often as once a week or ten days from the time of his return from service until his death, and was with him when he died; that he constantly had some swelling of the limb; that for a week before he died he saw him every day; that his symptoms were about the same as they had been; that he appeared to be suffering severely, and that his left leg was swollen full, and very red and inflamed; that he died while out riding with affiant and another acquaintance; that affiant noticed on the morning of his death that he was suffering more than usual, and advised him not to go out; that they drove out about 6 miles and turned back for home, and he said he felt better. When about half the distance home he said he was feeling badly again, and in a few moments expired; that affiant saw nothing unusual in his appearance that morning, except that he was weaker and more reduced and appeared to be suffering more; has no recollection of his having any cough during that week; that he did have a cough the March before.

Dr. Loughridge testifies—

"That he visited Downs at his residence from February 6, 1875, to April 3, 1875, five times, and saw him and treated him at his office from April 3 to July 24 thirteen times;

also visited him about a week before his death at his residence; that when he first saw him he had erysipelas in left leg, extending from foot to thigh joint; it was acute and became chronic, and continued until affiant last saw him, about a week before his death; had acute pneumonia of right lung when he first saw him, from which he nearly recovered. When he last saw him he had pneumonia in a milder form, and the erysipelas still continued. Affiant was not present at his death and cannot state the immediate cause."

Comrade George A. Rogers testifies that erysipelas was prevalent at Camp Butler; that he himself had it, and while at hospital saw Downs there also afflicted with it, arm swollen full, red, and inflamed.

John Johnson testifies from personal observation that soldier had erysipelas when he came from the Army, and had it continuously until his death.

Dr. J. W. Martin testifies:

"Treated soldier from about August 10, 1866, to August, 1871. When first called found him suffering from erysipelas of his leg of a very severe type; afterwards assumed a chronic form; lost sight of him after 1871; was satisfied the disease would eventually cause his death; received no pay for medical services and kept no record of visits, as soldier was poor and he expected nothing for his services; continued them as long as he could afford to for nothing."

Austin N. Shaw testifies:

"Soldier was very low with erysipelas when he came from the Army. Helped to bring him from Peoria to his residence. Continued to have erysipelas until his death."

John C. Yates, county judge of Peoria County:

"Soldier was hearty before enlistment. Saw him frequently after he came home. Appeared to be in a failing condition. While not strictly temperate, his habits were not such as to induce disease."

Arthur Livingston testifies:

"Knew soldier intimately. Saw him day after his return home. His arm was very red and swollen with erysipelas. There was talk of amputation. Could do no work for a year. After that was some better, but could not do one-third the work he could before enlistment. Was of good habits, not a total abstainer, but did not drink to excess. Says he died of the disease he had in the Army. Saw him two or three days before his death. His legs were swollen, and of a purple color. Was poor, and could not afford to have constant medical attendance."

Paul F. Graze testifies:

"Saw him shortly after he came from the Army and frequently up to time of his death. Saw him the morning of the day he died; frequently saw his legs dressed; knows he had erysipelas when he came from the Army, and had it continuously, and died of its effects; frequently saw his legs dressed; was not injured by stimulants."

The medical referee sums up the case as follows, under date of January 18, 1883:

"Under such circumstances all the pathological probabilities show that soldier died of erysipelas and that such disease was constitutionally present from time of incurrence to death."

This concludes a reply to the chief of the board of review in answer to a reference from that official, and which commences as follows:

"Respectfully returned to Dr. ———, inviting his personal attention to the conclusion of the medical reviewer, '*That the immediate cause of claimant's death was dependent on disease contracted in the service and in the line of duty.*'"

And adds as follows:

"The above seems to decide the entire subject, leaving nothing for a legal reviewer to determine from the evidence. It would be more satisfactory to have a medical opinion as to the immediate cause of the soldier's death, &c."

This was under date of January 18, 1883. Under date of February 14, 1883, a medical referee very fully sums up the evidence and reviews the case. He commences his report as follows:

"The primary and only predisposing cause of death in this case, in my opinion, was erysipelas, and all the other diseases of which we have record or other evidence in this case, and to which the death could reasonably or probably be attributed, are, in my opinion, secondary and dependent on the erysipelas. The constitutional disease is erysipelas, which is almost constantly present in an acute form from first incurrence to death, as shown by the evidence."

The referee concludes a very careful review and analysis of the case in these words:

"Finally we have only to say that, in our opinion, the immediate and remote causes of soldier's death were erysipelas, with which he suffered almost constantly from incurrence in service to his death."

Your committee is at a loss to see why the medical conclusions, clearly based upon abundant testimony, were held insufficient by the board of review.

Your committee thinks that a case was clearly made out, and recommends the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 868.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6650.]

The Committee on Pensions, to whom was referred the bill (H. R. 6650) granting a pension to Samuel Robbins, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

The papers on file in this case show that claimant enlisted December 3, 1861, in Company A, Twelfth M. S. M. Cavalry, and was discharged for disability February 14, 1863. In 1871 he applied for a pension, alleging gunshot wound in the shoulder, received in March, 1862. The evidence in this case is very clear and strong, and abundantly establishes the following state of facts: About the 12th of March, 1862, claimant applied for and received a furlough to go to his home, a few miles distant, to see his wife, who was then very sick, and who died shortly after. While at home, and before the expiration of his furlough, three rebel soldiers came to the house for the purpose of capturing or killing him. He attempted to escape and was shot down. The Department rejected his claim for a pension on the ground that he was not in the line of duty.

Your committee, believing that he was performing a sacred duty in visiting and caring for his dying wife, and that he was shot down because he espoused the cause of his country, recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 869.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7617.]

The Committee on Pensions, to whom was referred the bill (H. R. 7617) granting a pension to Solomon J. Grissom, have examined the same and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives hereto annexed, and recommend the passage of the bill.

The files in this case show that claimant enlisted in Company E, Twentieth Kentucky Volunteers, November 7, 1861, and was discharged January 17, 1865. In 1875 he made an application for a pension, alleging disease of lungs and chest, the result of measles contracted in the service. This was rejected on the ground of no record and no evidence of medical treatment in the service. The records of the hospital, which are very meager, show that claimant was admitted August 17, 1864, with rheumatism; no other diagnosis. A large amount of evidence is on file to show that he was sound and healthy at time of enlistment.

Lieut. S. A. Crowell testifies that claimant contracted measles, took cold, and the disease settled on his lungs; that he did not regain his health during the winter; that he was constantly with him until June, and has known him for several years since discharge, and believes that claimant's health was permanently injured.

J. H. Dunbar, a comrade, testifies that claimant had the measles at Smithland, Ky., and that he was well acquainted with him till 1876, and that he was never a sound man after he had the measles. Nathan B. Jackson, another comrade, testifies to substantially the same effect. Timothy Jackson, a comrade, testifies that claimant contracted measles at Smithland, which settled on his lungs; that he was down a long time.

Dr. F. J. Sullivan testifies that he examined claimant August, 1866, and found him suffering with an affection of both lungs, and treated him several times after until 1876. Nathan Creekman and William Holland testify to an intimate acquaintance with claimant from discharge until he left Kentucky in 1876, and that since he returned from the Army he had been constantly ailing, and that they were satisfied his health was permanently injured. Dr. Andrews says he treated him in 1881; Dr. W. T. Sheek testifies to treatment from 1881 to 1884 for pulmonary disease. The examining surgeon at Hopkins in 1876 reports left lung diseased, and rates it at one-half total. The examining surgeon at Peru, Chautauqua County, Kansas, in 1882, reported claimant totally disabled by lung trouble, and the board at Independence, Kans., report him April 15, 1885, and July, 1885, as totally disabled.

If lay evidence is of any value, this soldier contracted measles in the military service; the disease settled on his lungs, continued during the service, existed at discharge, and has continued ever since. It is true that there is no hospital record, and claimant has been unable, during the eleven years that the claim has been pending, to obtain evidence of medical treatment in the service.

Dr. William H. Curran, assistant surgeon of the regiment, says he has no recollection of treating claimant, though he may have done so.

Dr. John C. Welch, assistant surgeon, that he has no recollection of treating him, though he may have had measles, as many of the soldiers did at Smithland.

To grant the soldier a pension now, to commence with the passage of this bill, seems but partial justice; but your committee heartily recommend this recognition of the claim.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 870.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1592.]

The Committee on Pensions, to whom was referred the bill (H. R. 1592) granting a pension to Sarah A. Vaughn, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives hereto annexed, and recommend the passage of the bill.

Sarah A. Vaughn claimed pension as the dependent mother of her son, Delos A. Graves, late of the Seventeenth Independent Battery Light Artillery, New York Volunteers, who enlisted August 27, 1862, was discharged August 5, 1864, "because of confirmed phthisis pulmonalis, contracted in the service; unfit for the Veteran Reserve Corps; disability total;" and "died of said disease July 15, 1865."

The mother's claim was rejected on the ground that she at "time of soldier's death and for years afterward had sufficient means and a husband, who would have taken care of her had she permitted him to do so."

The claimant was a widow when she married Mr. Vaughn. The evidence shows that soldier contributed to his mother's support with money and groceries, and that at one time she owned property, real and personal, valued at from $2,000 to $3,000, which appears to have dwindled away, so that, according to the records at the county clerk's office, she is now possessed of real estate for which the purchase price is fixed at $1,100, and upon which there is an undischarged mortgage of $800. Upon this property she realizes a rental of $1.50 per week, and has no other source of income.

She is now seventy-two years of age, and separated from her husband because of lack of support. He was a Methodist minister, and at time of separation she testifies he was in receipt of a salary amounting to $250 per year.

The member of the committee to whom this case was referred was personally acquainted with the claimant while she was the wife and widow of Ralph H. Jackson (her former husband) and at the time of her marriage to her present husband, Rev. John W. Vaughn. He knows that soon after her marriage with Vaughn, they separated and have not since lived together, and that Mr. Vaughn is and has been for many years a poor man, dependent upon his small salary as a minister for his support. He also knows that Mr. Vaughn is now about eighty years of age and mainly living upon his yearly allowance as a superannuated minister.

Your committee, believing that the contributions of the son at or about the time of his death establishes dependence at that period; that the property she possessed did not afford a sufficient income for her support, necessitating such use of the principal as caused it to dwindle to its present small proportions, and that she is now dependent and aged, therefore recommend that the claimant be granted the relief asked for, and that the bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 871.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6192.]

The Committee on Pensions, to whom was referred the bill (H. R. 6192) granting a pension to Mary Norman, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

The claimant, Mary Norman, is the widow of Turner Norman, late corporal Company G, Thirty-fifth United States Colored Troops, enrolled May 22, 1863, and who was wounded in battle at Oulastee, Fla., February 20, 1864.

War Department records show soldier in hospital from said wound from February 22, 1864, to August, 1864; left with detachment at Jacksonville, Fla., sick since November 26, 1864; present for duty from February 28, 1865, to April 30, 1866.

Soldier was mustered out of service with his company at Charleston, S. C., June 1, 1866. Company was in action at battle at Oulastee, Fla., February 20, 1864. Company or regimental records do not give the location of wound.

Surgeon-General's report shows that soldier was treated in general hospital at Jacksonville, Fla., for gunshot wound of head received in battle. Also in general hospital at Beaufort, S. C., for gunshot wound of left side of head.

Soldier died December 22, 1869.

Soldier made application for a pension, but died before the same was granted.

Widow filed application for pension February 4, 1880. Rejected on the ground that the death cause, "drowning," was not due to the soldier's military service.

A number of soldier's comrades testify under oath that, although his right jaw-bone was broken, resulting in a running sore, producing great suffering and partial deafness, soldier, after his return from hospital, refused to leave his regiment, but remained, doing light duty, until his regiment was mustered out at the close of the war.

After his discharge he was a great sufferer, and to a great extent unable to perform manual labor.

Soldier was drowned in an accident while crossing the Roanoke River in North Carolina, the indirect result of the wound received while in the service of the United States and in the line of duty. In crossing said river the boat sprung a leak; the ferryman called to him to save himself; a man who was also in the boat with soldier made his escape, but soldier, suffering from his wound and disabilities received in the service, was unable properly to care for himself, and was drowned as the boat sank. Soldier's widow is quite poor.

Your committee are of the opinion that soldier's death can be easily traced to the disability received in the service and in the line of duty, and believing this poor widow justly entitled to the pension asked, recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 872.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1766.]

The Committee on Pensions, to whom was referred the bill (S. 1766) granting a pension to William Brentano, have examined the same, and report that the records in this case show that claimant enlisted as a private in Company B, Thirteenth Kansas Volunteers August 19, 1862, and was discharged June 26, 1865.

The records from the Adjutant-General's Office show that claimant was in hospital at one time from October, 1862, until February, 1863, and also at other times, but the nature of the disease is not stated.

Declaration for pension filed June 30, 1880, alleging rheumatism and piles.

Claim rejected January 13, 1886, on the ground of insufficient testimony to establish origin and continuance of diseases.

The fact that claimant was accepted and mustered into the United States service is *prima facie* evidence of soundness at that time.

The testimony of John Frank Kotsch, claimant's first lieutenant, is to the effect that claimant was sound and strong when he enlisted, but that after a time he did have rheumatism, and that it was the result of exposure, and that claimant made a good soldier and did detail duty when he was sick without complaining.

The testimony of John T. Kernan, a comrade, corroborates the foregoing. The affidavit of Dr. Charles C. Righter, dated April 9, 1885, shows continuance of these disabilities, and the certificate of Examining Surgeon Samuel W. Day, dated March 24, 1882, and certificate signed by Examining Surgeons James R. Duncan, J. T. Axtall, and E. P. Stearns, dated May 21, 1884, corroborates claimant's statement and the other examinations.

Taking into consideration all the evidence on file in this case the committee believe it to be their duty to report in favor of this bill, and recommend its passage.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 873.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2229.]

The Committee on Pensions, to whom was referred the bill (S. 2229) granting a pension to William C. Shimonech, have examined the same and report that the records in this case show that claimant has drawn a pension of $14 per month, which is the highest amount allowed under existing laws for the disability with which he is afflicted.

It appears that claimant is totally incapacitated from performing any manual labor by reason of the disabilities incurred in the line of his duty. This fact is certified to by the board of examining surgeons, dated December 28, 1885, and signed by J. O. Stanton, Irving C. Rotse, and W. V. Marmion, who state that "In our opinion, he is unable to perform any manual labor."

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill, and recommend its passage.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 874.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2183.]

The Committee on Pensions, to whom was referred the bill (S. 2183) granting a pension to Hiram R. Ellis, have examined the same and report that the records in this case show that claimant enlisted as a sergeant in Company I, Fifth Michigan Cavalry, August 19, 1862, and was discharged June 5, 1866. That he has received a pension for piles since June 6, 1866. It appears that the piles made their appearance first on a march from Fairfax Court-House to Gettysburg in June, 1863, but the disability was then slight and he recovered from it, so that it was of no consequence.

In 1864 claimant was promoted to first lieutenant and adjutant of the Twenty-eighth Regiment Michigan Infantry, and on a forced march from Camp Nelson, Kentucky, to Nashville, Tenn., he became seriously disabled with the piles and has been so ever since.

The fact of the serious nature of the disability is abundantly testified to by many persons and before a special examiner of the Pension Office and by certificate of board of examining surgeons dated June 7, 1882, who rate claimant's disability as total.

It would appear that the disability did not affect him until the forced march from Camp Nelson to Nashville, and that as a matter of justice he should receive a pension according to the rank he then held.

Taking into consideration all the evidence on file in this case the committee believe it to be their duty to report in favor of this bill and recommend its passage.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 875.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2111.]

The Committee on Pensions, to whom was referred the bill (S. 2111) granting a pension to Jacob Smith, have examined the same, and report:

The petitioner was a private in Company E, Sixth West Virginia Cavalry. The report of the Adjutant-General identifies the soldier as in service from the date of his enlistment, October 9, 1862, to the date of his discharge, November 13, 1865, and says:

Prisoner of war records show him captured at New Creek, Virginia, November 28, 1864; confined at Richmond, Va., December 7, 1864; paroled at Richmond, Va., February 15, 1865. No evidence of disability; no regimental hospital records, Sixth West Virginia Cavalry, on file.

The petitioner claims that he contracted rheumatism while in prison at Richmond, as shown, and on oath he says, "The prison being cold and damp—in fact, constantly wet and very filthy." This statement is so self-evident that it needs no affirmation, and was almost certain to produce the disability claimed.

The examining surgeon certifies to the existence of rheumatism, which he rates at half total. His attending physician testifies to the same facts, and to the good character of the soldier.

From the statements, medical and otherwise, it appears that the man's joints were stiffened, and that there was a creaking sound of the knee-joints.

Over one hundred of his neighbors testify to his poverty and worthiness, and to the fact that some years ago he was run over by a railroad train, which caused the amputation of one of his legs and crushed the remaining foot. While this mischance has no direct bearing upon his claim for a pension, his being stiff and inactive from rheumatism may have been the cause of his misfortune.

Your committee believe the man may properly claim the relief provided for in the bill, and therefore report it favorably, with a recommendation that it pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 876.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2039.]

The Committee on Pensions, to whom was referred the bill (S. 2039) granting an increase of pension to Ira Miller, have examined the same and report that it appears from the records that claimant was mustered into the service as a private in Company C, Fifteenth Regiment Indiana Volunteers, on the 14th day of June, 1861, and was discharged August 8, 1865; that while in the service he contracted disabilities, which have continued to increase, and for which he was pensioned January 19, 1881; that from time to time the pension has been increased until he received $50 per month. The disabilities have continued to increase by reason of disease, which is locomotor ataxia, or increasing paralysis, until this time, and now both legs and both arms are entirely paralyzed, and he is unable to move hand or foot, and the disease will continue to increase, being incurable, until he dies. The claimant requires the constant attention of one and sometimes of two persons. These facts are certified to by five certificates from five of the examining surgeons of the Pension Office.

Taking into consideration all the evidence on file in the case, the committee believe it to be their duty to report in favor of the bill and recommend its passage.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 877.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1844.]

The Committee on Pensions, to whom was referred the bill (S. 1844) granting a pension to Orrin P. Cooley, have examined the same, and report:

The petitioner was a private in Company C, Forty-second Illinois Volunteers. He enlisted August 10, 1861, and was discharged June 14, 1865. The record covering the date of disability shows, "absent, sick at Stevenson, Ala., since August 28, 1863, and similarly borne until January and February, 1864, when he was present. Captured January 11, 1865."

The evidence furnished the Commissioner of Pensions, shows that he was sound when he entered the service, and the witness swears to his knowledge of his capture and imprisonment. This is from a comrade. Another comrade testifies that in August, 1863, the claimant had his right foot badly burned by falling into a smoldering fire while going to the rear at night; that he was well acquainted with claimant prior to his enlistment and since; that prior to his capture he weighed about 160 pounds.

The examining surgeon gives his height at 5 feet, 8 inches; weight, 345 pounds, and adds:

> Obesity is not hereditary. He was confined in prison a long time, and starved, so that from 156 pounds, he only weighed 80 pounds when set at liberty. Then he gradually grew fat and now measures 51 inches around the abdomen. The lungs, kidneys, and liver are normal. The heart is much displaced and enlarged; cannot lie on his back or side only when nearly in an erect position. Obesity is the result of long confinement and starvation. The applicant is so adipose that he can do no manual labor. Can only sit erect, and then suffers all the time.

In a note of the medical director of the Pension Office, found in the file, he says:

> I expect that this claim may be good, but "may be" is not sufficient ground for admission. There is a possibility that it is good, that is all I can say.

The official testimony bearing on the case is very meager; but there seems to be good ground for accepting the report of the examining surgeon, who connects the obesity with the unnatural enlargement of the claimant.

The committee are of the opinion that disability exists, attended with suffering and inconvenience; and report the bill with an amendment, striking out the word "fifty," in the sixth line, and inserting the words "twenty-five," and recommend that it do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 878.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2163.]

The Committee on Pensions, to whom was referred the bill (S. 2163) granting a pension to Powhattan B. Short, have examined the same, and report:

The application of the petitioner was filed in the Pension Office and rejected—

Because the soldier was a militiaman, and not in the military service of the United States, and did not file his claim prior to July 14, 1874, the date of limitation for the filing of all claims on account of service in State militia. (Sec. 4693, Rev. Stats.)

The soldier was a private in Company K, Sixty-eighth Missouri Militia. The Pension Office does not reject his claim upon any other ground than that he was debarred by the expiration of the law before he filed his claim. The disability for which he seeks relief of Congress is injury to his eyes, incurred in the discharge of his duty as a soldier. There is no record evidence in his favor, but that circumstance, in his case, does not prejudice his claim, inasmuch as there is other proof that is sufficiently reliable.

Dr. Ira M. Raney testifies as follows:

I am a practicing physician in the counties of Iron and Wayne, State of Missouri. On the 28th day of July, 1862, I was duly commissioned first assistant surgeon in the Sixty-eighth Regiment Cavalry, Enrolled Missouri Militia, and remained assistant surgeon up to the 12th day of March, 1865, when said regiment was disbanded; that Powhattan B. Short enlisted as a private in Company K of said regiment on July 28, 1862; that I, as assistant surgeon, examined said Short at the time he enlisted and found him physically a sound man; that while in the line of duty, and by exposure while scouting in Southeast Missouri, he contracted inflammatory sore eyes, and by over fatigue and exposure, with the best treatment I could give him, his case run into a chronic opthalmy before he was discharged from the service; that I have treated his case since and treated him very frequently, and the disease of his eyes has grown worse, and on a thorough examination I find that he is totally blind in right eye and can see very imperfectly out of the left: that said disease of the eyes was contracted while in said service and in the line of duty; that he, the said Short, has not now, nor any trace of ever having had, any other disease, and he does not use intoxicating drinks of any kind; that said company and regiment were co-operating with the United States forces at the time in suppressing the rebellion in the State of Missouri.

This testimony, in the opinion of the committee, sufficiently identifies the disability and the service.

The bill is reported favorably, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 879.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2130.]

The Committee on Pensions, to whom was referred the bill (S. 2130) granting an increase of pension to John C. Miles, have examined the same, and report:

The petitioner served in Company C, Forty-eighth Regiment Indiana Volunteers. He has been pensioned at the rate of $4 a month, which for a long time he has striven to have increased. The history of his case may be thus briefly stated:

It is in evidence that he was sound when he entered the service. On coming out of it he had a wound in the head, to which is attributed total deafness of left ear, nearly total blindness of one eye, chronic diarrhea, and rheumatism. He claims hernia, but the physicians do not recognize it to any extent. The record shows that he was treated in hospital for rheumatism in 1862 and in 1864. His small allowance of pension was exclusively for diarrhea. The Surgeon-General reports that the hospital records are incomplete. The hospital reports make no reference to wound in the head, neither does that of the Adjutant-General. The soldier avers that he received it, and that he was treated for it a month in hospital. The examining surgeons testify that they find evidence of the use of the trepan, and to the injury of the head they attribute deafness. Also that the joints present evidence of long continued rheumatism; and one of the doctors testifies that he has suffered from this disability, from his personal knowledge, during the past twelve years. Several special examiners have made reports in his case, and from these it appears that he is rated too low. The man is unable to labor to any extent, and his disabilities have increased since his discharge. In the opinion of the committee there is evidence to show that deafness, impaired vision, chronic diarrhea, and rheumatism exist, and are results of his service.

The bill is reported favorably with a recommendation that it do pass.

O

CONGRESS, } SENATE. { REPORT
Session. } { No. 880.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

AWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2129.]

ommittee on Pensions, to whom was referred the bill (S. 2129) grant- an increase of pension to John W. Wills, have examined the same, report:

petitioner applied for a pension in May, 1876, alleging disease of and for which he was pensioned at the rate of $2 a month. In 1885, he applied for increase on account of varicose veins. There record testimony other than that which identifies his service in any A, Eleventh Indiana Volunteers—nothing that positively con- his disabilities with his service as a soldier. The absence of record ony makes it difficult to prove illnesses and injuries contracted Army, and unless credit is given to evidence produced from other s, wrong would often be done to claimants who are justly en- to relief. Relying in this case upon the statement of the exam- surgeons, it is evident that the soldier's present rating is much too

iew of all the facts gained from careful investigation, the com- e report the bill favorably, with a recommendation that it do pass.

H CONGRESS, } SENATE. { REPORT
st Session. } { No. 881.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2132.]

Committee on Pensions, to whom was referred the bill (S. 2132) granting pension to Fridoline Glastetter, have examined the same, and report:

ne petitioner was a private in Second Illinois Light Artillery. He sted December 12, 1861, and was honorably discharged December 1864. He applied for a pension for rheumatism, alleged to have been racted by breaking through the ice on the Mississippi River on the of January, 1864, and subsequent exposure in wet clothing, while is return from furlough. The Commissioner of Pensions does not y the existence of the disability, but says it was not contracted in line of duty. Appeal was made to the Secretary of the Interior, sustains the rejection by the Commissioner. The records verify service, and show that he was granted a furlough from November 1863, to December 20, 1863, to enable him to provide a home for his dren, his wife having died about that time. It is charged that he rstaid his time, and that it was after the expiration of his furlough t the accident occurred.

he Adjutant-General informs the Pension Office that there is no rge against him for desertion or absence without leave, and the comtee are of the opinion that a severe construction should not be put n his delinquency in view of the fact that he was absent on the sad and of providing a home and protection for his motherless children, the necessity for his prolonged absence may have been imperative. all events, there is no evidence that it was criminal; and inasmuch t is the principal ground of his rejection, the committee report the favorably, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 882.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2026.]

The Committee on Pensions, to whom was referred the bill (S. 2026) granting a pension to Wallis Pattee, have examined the same, and report:

That the records in this case show that claimant enlisted in October, 1861, and was discharged June 22, 1866, and that he was a lieutenant in Company K, Seventh Regiment Iowa Cavalry. Declaration for pension filed April 15, 1872, alleging ill-health following fever, from exposure and exhaustion. Claim rejected January 7, 1882, on the ground of no record of alleged diseases.

Presented with other papers from the Pension Office there is the statement of claimant as to time, place, and circumstances given in considerable detail as to origin of the disability in the line of duty, which statement is corroborated in all its parts by the affidavits of claimant's lieutenant-colonel, John Pattee, by affidavit of Assistant Surgeon S. N. Pierce, by affidavits of Comrades Truman Pattee and W. W. Jones, by second affidavit of Dr. S. N. Jones as to claimant's condition since discharge from service and existence of disabilities incurred in service. Also affidavits of D. S. Bradford, M. D., corroborating the foregoing; also affidavit of J. M. Ball, M. D., corroborating above. Also the certificates of Examining Surgeon S. N. Pierce, who rates claimant's disabilities as "total." Also certificate of Examining Surgeon William Boys that disability is "probably permanent."

There are in this case on file with the papers nine affidavits, all substantiating the sworn testimony of the claimant, two of which are by surgeons appointed by the Pension Office expressly to examine such cases, and yet the case is rejected on the ground of "no record of alleged diseases."

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill, and recommend its passage.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 883.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2233.]

The Committee on Pensions, to whom was referred the bill (S. 2233) granting a pension to John P. McElroy, have examined the same, and report:

The certificate of the adjutant-general of the State of Missouri shows that this soldier was enrolled on the 11th day of August, 1862, at Bowling Green, in that State, in Company D, Forty-ninth Regiment, Missouri Enrolled Militia, to serve until further orders or during the war, and that he was mustered into the State service as a private on that day, at the place, and in the regiment above given. The petitioner avers that while engaged in co-operating with the United States forces in Northeast Missouri he received a gunshot wound, caused by the accidental discharge of a musket, by which a musket ball struck the under part of his jawbone, severing it, and passing upward, tearing and breaking the bones of his side face and head, severing and destroying the drum of the ear and totally destroying its hearing. He alleges that he is terribly disfigured and permanently disabled. All this is satisfactorily shown by the testimony of his comrades and officers, who were eyewitnesses, and by the allegations of surgeons.

The applicant applied for a pension almost immediately after the occurrence, the Pension Office rejecting his claim on the ground that the organization to which he belonged was not, at the time the injury was received, under control of a military officer of the United States. In response to an inquiry of the Pension Office the Adjutant-General of the United States says there is no evidence of service rendered by McElroy on file in his office, or that the Forty-ninth Missouri Enrolled Militia was under control of a military officer of the United States during the period of alleged service.

On this point the testimony of Robert A. Campbell has some bearing. He says he was major of the Forty-ninth Missouri Enrolled Militia Volunteers, and was in active service in the field in August, 1862. About August 31, 1862, he, with a portion of his command, were stationed at Paris, Monroe County, scouting and guarding prisoners; that while a portion of his command was so employed at or near Florida, Mo., expecting an attack from the enemy, who were in the vicinity, the command of General John McNeil came into the vicinity of affiant's command, and being of higher rank than affiant, and under command of General Lewis Merrill, United States Army, said McNeil took command as superior officer of the forces of Lieut. W. C. Kincaid, Company D, Capt.

Benjamin Braustetter, Company G, of the Forty-ninth Missouri Enrolled Militia, and retained said forces under his command for scouting and military duty during the time that Lieutenant Kincaid's and Captain Braustetter's commands were under the command of General McNeil. He then goes on to show that McElroy, who was corporal of Company D, was wounded as alleged, connecting the injury to this man with the fact that he was serving under control of General Merrill, of the United States Army at the time.

The Pension Office, however, does not accept this in the absence of evidence from the Adjutant-General, as establishing the point necessary for the recognition of the petitioner's claim, and in a final letter the Commissioner says:

> It is a case in which the office can do nothing. A special act of Congress is the only source for relief.

For more than twenty years this man has been seeking relief from the Government, in behalf of which he took up arms, and now, needy, advanced in years, and helpless from his injuries, he appeals to Congress. It is said that his relief should come from the State of Missouri, in whose service he received his injuries. The committee do not so regard it. The State of Missouri was co-operating with the United States to maintain the integrity of the Union; her forces were enrolled for that purpose, and they were at the disposal of the commanders of the Union armies; and there is reasonable evidence that the organization to which McElroy belonged was under control of a general of the United States Army.

Again, it has been said that his injuries may not have been the consequence of "certain military duties," as prescribed by a strict construction of the statute; but he was there—it was military duty and nothelse that he was doing—and his injuries were the result of his being where he was, and in the discharge of a duty that he dared not refuse to perform, and the purpose for which he was ordered to his duty was identical with that which the United States forces were performing in the same vicinity, and in reality under the same commander.

The bill is reported favorably, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 884.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2228.]

The Committee on Pensions, to whom was referred a bill (S. 2228) granting a pension to Samuel F. Rowe, have examined the same, and report:

The claimant enlisted as a private in Company G, Fifth Wisconsin Infantry, in May, 1861, and was discharged June 14, 1862. He asks for a pension for chronic rheumatism, contracted at Cape Griffin, Va., while in the line of his military duty.

His application was rejected by the Commissioner of Pensions solely on the testimony of the official surgeons, who allege that he is perfectly sound, and without any appearance of disability. The report of the Adjutant-General identifies the service of the soldier, and mentions his discharge for disability. The Surgeon-General's report says he was admitted to Eckington Hospital, Washington, D. C., May 16, 1862, with chronic bronchitis, and discharged from the service June 14, 1862.

Dr. Walbridge, of Wisconsin, testifies, that after a careful examination, in October, 1884, he finds chronic bronchitis affecting the lungs, which corresponds with the report of the Surgeon-General. He also has pains in the chest and arms, due to chronic rheumatism, and he pronounces him partly disabled.

Ceylon C. Lincoln, a neighbor, testifies to his long acquaintance with claimant, and to his personal knowledge of him from year to year, and since his return from the Army to the present time he has been partially disabled from performing manual labor.

R. H. Soper says his acquaintance commenced with the claimant when they enlisted; that he was a sound man; that he has personal knowledge of his being sick and sent to the hospital, and of his continued disability.

Other witnesses testify to their knowledge of him before enlistment, when he was an active healthy man.

The surgeon's certificate of discharge says he finds him incapable of discharging the duties of a soldier; that he is discharged on account of chronic rheumatism, and adds, "of six years' standing."

The very contradictory statements of the doctors so weaken their value as to suggest that they cannot count for much for or against the claimant. The testimony of his neighbors and long-time acquaintances seems to be reliable, and it is in evidence that he entered the Army a

healthy man, and came out of it, and continues to be, broken in heal and to a degree disabled by a complication of diseases.

The Senator by whom this report is submitted has personal kno edge of this claimant, and can certify that he is a disabled man. destitute circumstances, and in every sense worthy of relief.

The bill is reported favorably, with a recommendation that it pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 885.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2218.]

The Committee on Pensions, to whom was referred the bill (S. 2218) granting a pension to Lucy A. Washburn, have examined the same, and report:

The claim for pension of Lucy A. Washburn, widow of Low Washburn, late private of Battery I, Sixteenth New York Artillery, was rejected by the Pension Office, on the ground that there is no record of the incurrence of the soldier's fatal disease in service, or medical treatment for same in service, or from discharge up to a short time prior to his death. The fact of absence of record testimony is one of the most fatal that the applicant for pension has to encounter.

The conclusive evidence in this case is that of his comrades, who testify that with him they were out three days on a scouting expedition; that this soldier led the party; that they were out three days in a continuous rain, part of the time in a swamp; that this man took cold, which resulted speedily in consumption, of which he died, and this they state upon their personal and positive knowledge. And it is in evidence that he was not only sound, but an unusually robust young man when he entered the service. This evidence is from responsible and properly accredited sources.

The Pension Office has procured from two persons (one a postmaster, who does not give his name) a statement indorsed on the back of an official letter to the effect that the soldier died of "hereditary" consumption, of which others of his family had died. These statements are not in the form of evidence, but brief and loosely made, and they are the only ones at variance with the testimony that proves the incurrence of the disease and its fatal ending. The cough and its wasting effect are traced from before his discharge to his death.

The committee, after a careful examination of all the evidence, feel justified in reporting the bill favorably, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 886.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2220.]

The Committee on Pensions, to whom was referred a bill (S. 2220) granting a pension to James G. Mathes, have examined the same, and report:

The claimant was a private in Company L, Eighth Missouri Cavalry. He enlisted August 16, 1862, and was discharged June 15, 1865. The military record shows that he was treated in hospital for chronic diarrhea and debility, and that he was sick at the time of his discharge.

The testimony furnished by physicians who have attended him shows that he has chronic diarrhea and that he has rheumatism of the spinal muscles and limbs; that he is generally broken down.

Dr. Berry, of Carthage, Mo., says his health is bad; that he has muscular rheumatism; that he is generally broken down, and never will be able to perform full manual labor; that he is temperate and honorable in every respect.

Dr. Dalton, of Neosho, Mo., says:

> When I last saw him he seemed to be suffering from kidney disease and from abdominal pains. He has always appeared to me to be a run-down man—physically disabled.

Dr. Wills, of Neosho, Mo., says he has not been very stout and healthy since the war, and that he supposes his disability is at least one-fourth below that of a sound man. All the physicians speak positively as to his good habits and standing.

The claimant asks for a pension for chronic diarrhea and disease of kidneys, both of which, with rheumatism, are identified by the testimony of the doctors referred to above. An examination by the medical board in 1883 pronounces him entirely free from disease. An examination by this board in 1885 rates him one-half disabled.

The doctors who have attended him and the medical board of examiners disagree to some extent, which is not an uncommon occurrence, but the aggregate of testimony shows that for a long time heretofore he has been badly broken down, and that he is still to a pensionable extent disabled.

The bill is reported favorably, with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 887.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2197.]

The Committee on Pensions, to whom was referred the bill (S. 2197) granting a pension to Henry Daner, have examined the same, and report:

Henry Daner, the petitioner in this case, is an "old war" claimant, having been in the service nearly twenty years. The testimony shows that "he has physical disability variable in character, but pretty constantly ailing, and more particularly in winter. Also a gradual failure of mental vigor." His degree of disability is rated total. He is not able to perform manual labor.

The bill is reported favorably, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 888.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2075.]

The Committee on Pensions, to whom was referred the bill (S. 2075) granting a pension to Jackson Chapman, have examined the same, and report:

The petitioner was in the Iowa Infantry, as a private, from December, 1862, to April, 1863; enlisted again for one hundred days, and was mustered out with his company September 16, 1864. This is record testimony, and it is all there is except the almost invariable statement that the records furnish no evidence of disability, and that "The regimental hospital records are not on file."

The soldier alleges that he was ruptured while lifting timbers to strengthen the fort at Moscow, Tenn., in anticipation of an attack from General Forrest when he made his raid in the spring of 1864. The event with which he connects his injury is a historical fact, and the record verifies his presence there at the time."

In a letter to the Pension Office he makes this appeal:

> I wish to know how I can get in possession of the surgeon's records that were kept the spring of 1863 on the quarantine island below Saint Louis, while I was member of Company H, Thirty-seventh Iowa Infantry, then doing duty at Saint Louis. I think it was some time in March. I was quarantined with small-pox, as the surgeon's book will show.

The War Department records furnish no information corroborative or contradictory of the statements made by the claimant; nevertheless the committee do not see that it is incumbent upon them to ignore what he says, on account of the delinquency of those by whom the record is supposed to have been kept, or because the Government is unable to disprove his story. The existence of hernia at the present and for a long time heretofore is shown by the examining surgeon, who says:

> He has inguinal hernia of the left side. The intestine readily descends into the scrotum when his truss is removed.

In reference to the matter Senator Wilson has stated in a letter to the committee that he has known the claimant several years, and for a considerable part of the time saw him almost every day; that he has been and is a poor man, and depends on his daily efforts for support of himself and family; that during all the time he has known him he has presented the appearance of a man suffering from physical disability; that he has often talked with him about his pension claim, and was and is impressed that he stated his case truthfully, and that it ought to be allowed.

In a letter to the Pension Office he speaks of having procured and forwarded the affidavit of the captain of his company, but it is not on the files; he also admits his inability to supply the proof required.

The soldier's service record is good, and he is respected for his upright character by his neighbors. The war records do not supply what is required to prove or disprove his claim, but it has no record except that which verifies his service. There is no testimony to disprove his statements, but there is corroborative proof from the most reliable sources.

The man is sixty-six years old, broken in health, and a daily sufferer from the injury he alleges, and the committee feel that it would be an act of cruelty to deny him the small relief for which he has been a long and patient suitor.

The bill is reported favorably, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 889.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1902.]

The Committee on Pensions, to whom was referred the bill (S. 1902) granting a pension to Ann E. Lamburg, have examined the same, and report that the records in this case show that claimant is the widow of George W. Lamburg, late a private in Company I, Seventy-eighth Regiment Pennsylvania Volunteers, who enlisted September 16, 1861, and was discharged November 4, 1864, by reason of disease of the ears, which made him deaf, said disease having been contracted by him in the line of his duty, and for which said soldier was pensioned November 5, 1864.

The records show, further, that the soldier was employed in sweeping a railroad bridge, when a train approached him from behind, and the engineer whistled several times to notify him of danger, but because of his deafness he did not hear the signal, and was run over and killed.

In this case the deafness is clearly shown to be due to disease contracted while the soldier was in the service and in the line of his duty, and his death is clearly attributable to the deafness; therefore, taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 890.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2198.]

The Committee on Pensions, to whom was referred the bill (S. 2198) granting a pension to Charles Brundridge, have examined the same, and report:

This case comes from the Pension Office in a very incomplete condition. It has not been briefed for rejection or allowance.

The soldier was a private in Company D, One hundred and seventeenth Ohio Volunteers, and filled his term of service faithfully, which was from August, 1862, to June, 1865. The War Department reports show that he was in hospital at different times for treatment, once for bronchitis and once for acute diarrhea. His application for pension alleges bronchitis and loss of teeth from salivation. The medical examiners find that these disabilities exist, and one of his neighbors says, "He is an old soldier, worn by disease, and totally unfit to perform manual labor; that he is temperate and very worthy." The Pension Office requires the testimony of comrades, which it is impossible for him to obtain.

The bill is reported favorably, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 891.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2180.]

The Committee on Pensions, to whom was referred the bill (S. 2180) granting an increase of pension to William Wallace Young, have examined the same, and report:

The petitioner was a private in Company B, One hundred and twenty-first New York Volunteers. He was pensioned at $4 and increased to $6 a month for disabilities resulting from confinement in rebel prisons. He alleges that while in Florence prison, South Carolina, in February, 1865, he contracted diarrhea, disease of liver and kidneys, and lung disease and scurvy while a prisoner of war, by exposure and starvation, resulting in general debility.

His capture and imprisonment are shown by the war records, and in the same report his disability is thus described by the surgeon: "Debility induced by improper and insufficient food while a prisoner in the hands of the rebels."

From the testimony of his neighbors, who are ascertained to be credible, it is proven that he was sound when he enlisted, entirely free from any of the diseases incurred while in service.

Sergt. Nathaniel Post testifies that while in Florence prison, about the 20th of February, 1865, he contracted diarrhea, liver, kidney, and lung disease and scurvy, which was caused by exposure and starvation, and resulted in general debility; that these facts are known to affiant, who saw claimant in the engagement at the Wilderness, Virginia, when he was in good health and capable of extraordinary endurance; that after his release from prison, on his way home on furlough, affiant again saw him, when he was emaciated, broken down, and so weak that he feared he would not live to get home.

Drs. Brown and Wilcox testify to having treated him for the disabilities claimed, and to his low condition. Recent medical examinations show that he is not able to perform manual labor; that his condition is not only nearly helpless, but pitiable.

There is a mass of convincing testimony in substantiation of his claim for increase, a careful examination of which convinces the committee that his pension is too low.

The bill is reported favorably, with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 892.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2045.]

The Committee on Pensions, to whom was referred the bill (S. 2045) granting a pension to Sarah Hamilton, have examined the same, and report that the records in this case show claimant is the widow of Thomas Hamilton, late a private in Company G, Thirty-seventh Regiment Iowa Volunteers, who enlisted September 2, 1862, and was discharged May 24, 1865.

The soldier was severely injured in February, 1863, but continued in the service until the close of the war. By reason of the injury the soldier was pensioned from May 25, 1865, which pension he continued to draw until the time of his death, although his disabilities continued to increase, and for some years before his death, which occurred April 22, 1882, he became totally blind. The pension was not increased, however, although it is shown by certificates that his disabilities continued to increase steadily, and were all certified to, including the blindness, by the examining surgeons of the Pension Office, who describe the blindness and rate him accordingly.

The widow is now sixty-three years of age, and so poor that she is helped from time to time from the poor-fund of the town where she lives.

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of this bill and recommend its passage.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 893.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

MR. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1997.]

The Committee on Pensions, to whom was referred the bill (S. 1997) granting a pension to Abbie B. Heath, have examined the same, and report:

That the records in this case show that claimant is the widow of John T. Heath, late a corporal in Company B, Twenty-fourth Regiment Indiana Volunteers, and who was wounded in battle May 16, 1863, for which the soldier was pensioned July 30, 1864.

The records show also that from the date of the wound until the date of the soldier's death (October 20, 1880), the disabilities of the soldier steadily increased, which is testified to by the attending physician, and that the soldier's death was "caused by the wound and exhaustion of his system resulting from the military service."

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report in favor of the bill, and recommend its passage.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 894.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2269.]

The Committee on Pensions, to whom was referred the bill (S. 2269) for the relief of William Dickens, late a private in Company A, Twenty-fourth Missouri Volunteers, have examined the same, and report:

The soldier claims pension for disability resulting from sunstroke incurred at the battle of Yellow Bayou, La., and from rupture by hard marching with General Banks on the Red River expedition. The Office rejected his claim on the ground that there is no record or medical evidence; but the medical reviewer says:

> If the regimental surgeon could identify the claimant as the man he treated for sunstroke the claim might be admissible.

If only those claims that are substantiated by the reports of the adjutant and surgeon generals were allowed, there would be very few pensions granted. The imperfect condition of their records is a serious disadvantage to the soldier.

The case was put in the hands of special examiners, one of whose reports was favorable, but rejected by the Office. Another contains the testimony of Dr. L. H. Baker, late surgeon Twenty-fourth Missouri Volunteers, the claimant's regiment, which he thus reports. The doctor testifies that he remembers that there was a man named Dickens in the regiment, and thinks he must have treated him. Remembers treating a case of sunstroke at Yellow Bayou, La., about May, 1864. The special examiner adds:

> I deem it proper to say that the doctor received no intimation from me as to the basis of the claim. In answer to question, the doctor said, "I could not say positively. What does he claim?" I said, "Not for any wound." Then followed his testimony about a case of sunstroke.

The doctor testifies that there was only one such case. Several comrades testify to service with him in the field at this battle; to seeing him fall with sunstroke; to seeing him carried to the rear on a stretcher; to Surgeon Baker's attendance on him; to their having been his neighbors and friends all their lives; to his prior soundness; to his subsequent and present broken-down condition; and one of them swears to the rupture while on the Red River march. Dr. Baker's reputation is admitted to be good, and, with one exception, all the witnesses are rated reputable. The soldier is sick; has been unable to work since his discharge; is advanced in years, and worthy. Believing that all this is established by the evidence, the committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 895.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2333.]

The Committee on Pensions, to whom was referred the bill (S. 1835) granting a pension to Byron R. McIntyre, have examined the same, and report:

That the records in this case show that claimant enlisted in 1862, but was rejected by the examining surgeon because he was not physically strong enough to endure the fatigues incident to a soldier's life.

In September, 1864, claimant was drafted, but at this time was accepted as sound, and was mustered into the United States service.

The records of the Adjutant-General's Office show that claimant was sick in hospital for some months, and was discharged from service on surgeon's certificate of disability March 6, 1865.

The surgeon's certificate of disability upon which claimant was discharged states that he was discharged because he had incipient consumption and piles and prolapsus ani, and that his degree of disability was three-fourths.

The examining surgeon's certificate, dated September 10, 1881, corroborates the foregoing and rates his disability total.

It appears to the committee to be but a simple act of justice to place the name of claimant on the pension rolls under the circumstances. He was accepted as a drafted man, after having been rejected as a volunteer, and soon thereafter his disabilities became so severe as to render him unfit for manual labor ever since.

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report a substitute for this bill, and recommend the passage of the substitute.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 896.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2334.]

The Committee on Pensions, to whom was referred the bill (S. 2182) restoring a pension to Isaac Ransom, have examined the same, and report:

That the records in this case show that claimant was a private in Company C, Forty-ninth Regiment Indiana Volunteers, and enlisted October 15, 1861, and was discharged September 13, 1865. It also appears that claimant was pensioned for rheumatism from September 14, 1865, to December 31, 1880, when the pension was discontinued on the ground that claimant had recovered from the disease. It was claimed originally that soldier was sunstruck four times while in the service, but the claim was not allowed, and he was pensioned for rheumatism.

The records show that claimant was a sound man prior to enlistment; that he was a good soldier. The fact of his having been sunstruck is testified to by his captain, John Nafius, by the assistant surgeon of the regiment, and also by Capt. John M. Williams; also by the regimental surgeon, who treated him for other diseases besides rheumatism contracted in the line of his duty.

There is also abundant testimony from claimant's neighbors, who knew him before enlistment and after his discharge, showing that he was a sound man when he enlisted; and since his return from the Army he has been unfitted by his disabilities from performing manual labor.

Taking into consideration all the evidence on file in this case, the committee believe it to be their duty to report a substitute for this bill, and recommend its passage.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 897.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2335.]

The Committee on Pensions, to whom was referred the bill (S. 2059) for the relief of the estate of Malitty Rose, submit the following report:

That it appears from the papers on file in the Pension Office that Malitty Rose was the widow of Elias Rose, private in Captain McCoy's Company, United States Infantry, engaged in the Florida war. Under act of Congress, approved February 3, 1853 (section 4732, R. S.), the said Malitty Rose was granted a widow's five-year one-half pay pension. Said pension commenced December 3, 1853, and expired December 3, 1858.

On June 3, 1857, six months before the expiration of her five-year grant, an act (now section 4725, R. S.) was approved, continuing that class of pensions for life. After the expiration of the five-year grant, the Pension Office dropped the name of Malitty Rose from the roll, and did not continue her as a pensioner for life, as provided by said act of June 3, 1858.

On March 29, 1879, she made application for restoration and accrued pension from date her name was dropped from the pension-roll. On June 9, 1879, she was restored to the roll, and paid a pension from date of completion of evidence, in accordance with section 4713, R. S.

This section provides that when an application has not been filed within three years of the termination of the pension previously granted the pension under said application shall commence from date of completing the evidence. The claimant made several unsuccessful attempts between the years 1879 and 1885 to get a reversal of above decision as to arrears; finally she took her case on appeal to the Secretary of the Interior, who, on March 5, 1885, rendered a favorable decision, using the following language: "It is believed by the Department that the provisions of section 4713 should not be applied to this case for the reason that the name of Mrs. Rose was on the roll when the act of June 3, 1858, was passed, and that the act could have been properly executed in her case without requiring of her an application. The act continued the pension she was receiving at the date of its passage, and the certificate for the continued pension might properly have been issued without any action on her part," and directed that a reissue certificate be issued for the amount of accrued pension, namely, $1,556.68.

On March 17, 1885, the Pension Office notified her attorney that the reissue certificate had that day been issued and sent to the pension agent at Knoxville, Tenn.

On April 9, 1885, over three weeks after the issue of her certificat and the pension agent had been directed to pay her the amount of a crued pension, the claimant died.

The administrator signed the vouchers and returned them to th agent, demanding the payment. He was denied. He applied to th Commissioner of Pensions to direct the payment as asked, who, in letter to the attorney dated July 22, 1885, declined to do so, giving a a reason the law as expressed in section 4718, Revised Statutes. H then applied to the Secretary of the Interior, asking payment upon th ground that the Government should not profit by its own wrong in fir dropping the name of Malitty Rose from the roll, in direct oppositic to the provisions of act of June 3, 1858, which declared the pensi should continue for life; second, in refusing payment of accrued pe sion in June 9, 1879, and thereafter until March 5, 1885; third, in tl long withholding of the vouchers (for over three weeks) and negligen of duty by the pension agent; and fourth, that the decision of March 1885, was rendered by a competent tribunal. Hence the question wa *res adjudicata*, the character of pension had ceased, and was thereafte one of the settlement of a judgment against the United States.

This appeal was decided adversely to the estate by the Secretary o the Interior, upon the ground "that no equity powers in the matter ar vested" in his Department. The administrator of the estate of Malitt Rose now applies to Congress for relief. Her son files the followin affidavit with your committee:

CITY OF WASHINGTON,
District of Columbia, ss:

Personally appeared before me, a notary public in and for the place above name James E. Rose, who deposes and says as follows: I am the son of Malitty Rose, d ceased, widow of Elias Rose, a soldier in the Florida war; I am fifty years of ag and have no means of support except by daily labor. I have two sisters, named Mr Jane Godfrey, aged about 57 years, and Mrs. Frances Patton, aged about 54 year and neither of said sisters have any property, and are dependent upon their ow labor and that of their husbands for support; that the last named is in very feeb health, resulting from the care and confinement incident to nursing her mother durir the last years of her life; that the house and lot left her by her mother in recognitic of her services in caring for her mother as above described will have to be sold settle the indebtedness against the estate if we cannot get the money due us from tl Government.

J. E. ROSE.

Sworn and subscribed to before me this 3d day of May, 1886.

EMMA M. GILLETT,
Notary Public.

The following indorsements of Mr. Rose are also filed:

Mr. James E. Rose is well known to me, and I feel confident that any statemen he may make concerning himself or others can be accepted as the truth.

JNO. B. SMOOT, *Mayor.*

ALEXANDRIA, VA., *March*, 1886.

I cordially indorse what is said of Mr. James E. Rose by Mayor Smoot.

K. KEMPER

ALEXANDRIA, VA., *March* 18, 1886.

ALEXANDRIA, VA., *March* 18, 1886.

I certify that Mr. James E. Rose is in my employment, at the wages of $9 per wee

J. H. D. SMOOT.

From the facts before us we are satisfied that it was through no ne lect on the part of the claimant that she failed in receiving her accrue pension before her death. We are equally well satisfied that it wa through the erroneous acts of the agents of the Government, particu

larly through the act of the pension agent in retaining the vouchers in his hand for so long a period as three weeks after the issuing and mailing to him of the certificate.

Your committee are of the opinion, however, that provision should be made so that the money when appropriated will be available for her children only, and your committee therefore report the accompanying bill as a substitute, and recommend that it pass as reported.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 898.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2215.]

The Committee on Pensions, to whom was referred the bill (S. 2215) granting a pension to Martha J. Todd, widow of Dr. R. N. Todd, have examined the same, and report:

Dr. Robert N. Todd was surgeon of the Twenty-sixth Regiment, Indiana Volunteers, and he was pensioned for disabilities incurred while in the discharge of his duties as surgeon. The disabilities consisted of chronic diarrhea and hemorrhoids, the severity of which caused him great debility. He died on the 13th of June, 1883, and his widow applied for a pension, alleging that his death was a result of the injuries for which he was pensioned. Her application is rejected by the Pension Office on the ground that he died of brain fever, and not of the disabilities for which he was pensioned.

The only testimony upon which to decide this point is that of the physicians who attended him during his fatal illness.

Drs. Bryan and Featherston, of Indianapolis, Ind., testify that when they were called to see the patient he was suffering from inflammation of the brain, caused by a fall. The fall was in consequence of debility and vertigo; that vertigo and debility were the result of chronic diarrhea, hemorrhoids, and fissure of the rectum, the disabilities for which he was pensioned.

The consulting physician testifies that the fall, and probable exciting cause of his fatal illness, was consequent to syncope, incidental to a general constitutional impairment, all of which he regarded as consistent and credible.

The simple and sensible conclusion, justified by the facts, and substantiated by the doctors' statements, is that his fall was the result of weakness caused by his admitted disabilities; that it aggravated his disease and hastened his death. In the opinion of the committee it is as proper to pension the widow as it was consistent and right to pension her husband.

The bill is reported favorably, with a recommendation that it do pass, with the following amendment: In the title of the bill and in the sixth line strike out the words "Mary G." and insert the words "Martha J."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 899.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2267.]

The Committee on Pensions, to whom was referred the bill (S. 2267) granting an increase of pension to Laurinda G. Cummings, have examined the same, and report as follows:

The committee find upon investigating this case that Col. Gilbert W. Cummings was mustered into the service as colonel of the Fifty-first Regiment Illinois Volunteers, early in 1862. That he was in action and frequently exposed to the severest hardships soon after entering the Army, from which he contracted disease rendering him unfit for service, and in the latter part of 1862 he resigned. His record during the short period of his service was that of a gallant soldier, brave in action, faithful in duty, and at all times ready for any call made upon him and his regiment. It was "for gallant and meritorious services during the operations before, and the capture of the enemy's works at Island No. 10 in the Mississippi River, that he received his brevet as brigadier-general."

The following extracts from the report of the House Committee on Invalid Pensions of the Forty-seventh Congress will give more in detail the record and evidence in this case:

In March, 1862, said Colonel Cummings, with his regiment, in the line of his duty, marched from Bertrand, Mo., to New Madrid, marching from Sykeston about twenty miles in a drenching rain, and during four days said regiment, with said colonel, were without tents or cooked food, and exposed to two rain-storms of twelve to fifteen hours each; and during the first ten days of April, 1862, said colonel, with his regiment, went to the Kentucky side of the Mississippi River to intercept the Confederates' retreat from Island No. 10, and again were without equipage or cooking utensils, and passed one night in a cold, drenching rain, and often wading; and after and in consequence of this, said Colonel Cummings became sick, and remained with his regiment sick for some time, and then left upon sick-leave so much disabled that he had to be transported upon a cot.

Said Colonel Cummings was a well and sound man when he entered the service. He died in March, 1877, of paralysis.

General Eleazer A. Paine states that he commanded the division in which said Cummings acted as brigade commander April, 1862, and that said Cummings was in fact the officer who captured Island No. 10, April 6, 1862, although the surrender was made to another officer. It also appears that said Cummings also suffered other severe exposure about the same date as that above detailed.

The letter of resignation of said Cummings is dated September 12, 1862, and August 1, 1862, the post surgeon, B. M. Vickers, certifies that he had carefully examined said colonel, and found that he had suffered greatly from a long course of fever and dysentery, and that the latter had become chronic, and suffered great general debility, weakness of the spine, and had little use of his lower limbs.

The said Cummings continued to suffer from said debility as long as he lived. He had attacks of fever, continued partial loss of use of the legs, his spine became affected,

and also the head, so as to produce mental derangement; became subject to c spinal oxis, was unfitted for all manual labor, had several attacks of paralysis of which he died—all of which resulted from the strain and exposure before d in March and April, 1862.

The said Cummings received no pension in his lifetime. His widow receive sion of $30 per month. She is a confirmed invalid, and testifies that her debil occasioned by her hard service in taking care of her husband during his afore bility. There is no prospect of her becoming in better health. She has a chro ease of the spine, and her condition is such that she needs the continual car attendant. She has also dependent upon her a daughter of her said husband, a partial invalid.

The husband's protracted illness used up the property possessed by him, th cant is very poor, and the $30 per month is insufficient to support her.

Your committee are of the opinion that, considering the valuable services of ceased husband, and the long and expensive sickness which he suffered, and es the fact that he bore that expense himself, without receiving a pension, and that the present disability of applicant is nearly total and is permanent, and w ably occasioned by her labors in taking care of her husband, further relief sh granted to applicant, and they recommend the passage of the bill.

This committee agree with the foregoing conclusions, and recon the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 900.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5332.]

The Committee on Pensions, to whom was referred the bill (H. R. 5332) granting a pension to Elizabeth Crowley, have examined the same, and report as follows:

The committee find that Thomas Crowley, late a private in Company G, Ninth New Jersey Volunteers, was the husband of the claimant, Elizabeth Crowley, and was a pensioner at the rate of $8 per month until his death in January, 1882. The widow's claim for pension was based upon her declaration that her husband's death, from softening of the brain, resulted from the gunshot wound received by him while in the service.

The claim was rejected by the Pension Bureau on the ground that death from alleged cause, and paralysis, was not the result of such wound.

The following synopsis of the evidence in the case is taken from the report of the House Committee on Invalid Pensions:

Dr. William Hackett, the family physician of the soldier at the time of his death, testifies that he treated soldier during the years 1879, 1880, and 1881 for chronic bronchitis, neuralgia of left breast, and softening of the brain; that his mind has been somewhat affected since he knew him; that the softening of the brain increased during the year 1881, the last three months of which he was confined to the house or bed with wandering mind, loss of speech, and loss of use of limbs till death occurred, January 26, 1882; that during said years soldier's physical condition was such that his disability to labor might be averaged at one-quarter during the whole time.

That he received a wound of the left subscapular region of the chest during the war. Its location was not positively determined, as no autopsy was held after death.

That ever since his discharge he had a cough, with pain in left chest and side, and during the last three years there was pain and swelling of left testicle. That taking the history and symptoms into consideration, it is affiant's opinion that the wound helped to produce direct cause of death.

In an additional affidavit the doctor says that the direct cause of death was softening of the brain.

That the sympathetic nerves of left side were injured by the wound, and there were frequent neuralgic attacks which weakened the system and deranged digestion from constant irritation, and helped to produce the condition of the brain from which he died.

Dr. Alpaugh, another physician who also attended the soldier during his last illness, says:

"I attended the soldier during his illness. He died January 26, 1882. The immediate cause of death was exhaustion from inanition, caused by softening of the brain. The minute or contributing cause was undoubtedly a wound in the upper part of the chest, which he received during his service in the Army."

The said report concludes as follows:

The examinations made of the soldier's wound during his lifetime by surgeons, under order from the Pension Office, develop the fact that the ball inflicting wound entered in front of left shoulder, about the middle of the clavicle, and came out near the upper and inner part of the scapula, and that quite a number of bones were discharged from the openings. It would seem that the upper part of the left lung had been wounded, as at times the soldier was troubled with spitting of blood.

The soldier, from the evidence in the case, was a constant sufferer from his disabilities from discharge until death. The wound through his chest destroying part of the nervous system, reduced him so that he became greatly debilitated.

This committee, in a thorough examination of the papers, find these facts and conclusions fully borne out, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 901.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1990.]

The Committee on Pensions, to whom was referred the bill (H. R. 1990) granting a pension to John Hunter, having examined the same, report as follows:

The committee find the claimant bases his appeal for pension upon a gunshot wound in the leg in May, 1864. It was rejected by the Pension Bureau on the ground that there is no record of the wound, and no satisfactory evidence of its having been received.

The following concise narrative of facts, gathered from the report of the House Committee on Invalid Pensions, is herewith presented:

John Hunter enlisted in Company H, Second Pennsylvania Cavalry, January 20, 1864, and was discharged at the expiration of his term of service, July, 1865. In the latter part of May, 1864, John Hunter claims to have been wounded in the leg, in the morning about 10 o'clock. They had been marching all the night, stopping once in awhile for an hour or two and regaling themselves as they marched along with the contents of their haversacks. He was in the act of firing his carbine at the instant he was shot. As soon as he was wounded he started to the rear, meeting Charles Smeck, a native of his own place, and another man whom he did not know, who helped him back to the field hospital. The claimant goes on and gives a detailed statement of the various hospitals to which he was transferred. In June, 1864, he was transferred to hospital at David's Island; was there about a month, when he was furloughed and went to his home. When he reached Reading his leg was so much swollen that he could not walk, and some men, whose names he gives, carried him home on a settee. His mother makes the same statement. She it was who gathered up some neighbors and went to the depot for him. She found him there unable to walk and in tears, as she supposes, by reason of the pain, but as your committee are inclined to think, because there seemed to be but a cold welcome home to this wounded and suffering soldier. In due course of time the wound in leg healed, but at intervals reopened and discharged. It finally healed and remained so for a "couple of years," when it again began to discharge.

About five years ago, when out gathering dandelions, in stepping across a small ditch, the wounded leg broke. The doctor who attended him states that the leg was about four weeks longer in uniting than is usual, and that in running his hand over the tibia he detected roughness of the bone. This indicates, in the mind of this committee, that the bone was diseased, probably carious, from the injury received in battle, and accounts for the leg having broken so easily.

The narrative of this claimant seems to be straightforward, and impresses your committee as being true. It is confirmed at points by other evidence, and seems to lack only where it would be difficult to produce. Two witnesses (comrades) swear as to meeting him as he was returning wounded from skirmish line. Others testify as to the condition of wounded leg on his return from the service, and others again as to the long protraction of the healing process.

Taking the entire body of testimony, which is voluminous, the committee are of opinion that the claimant's case is a valid and worthy one, and therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 902.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5331.]

The Committee on Pensions, to whom was referred the bill (H. R. 5331) granting a pension to Emma M. Shimer, have examined the same, and report as follows:

The following brief statement of the case is taken from the report of the House Committee on Invalid Pensions, and incorporated herein as follows:

Emma M. Shimer, widow of Robert T. Shimer, late of Company B, Third Regiment New Jersey Cavalry Volunteers, in her declaration for pension, alleges the death of her husband, June 19, 1871, as due from consumption, the result of a severe cold contracted in the service and line of duty. The Pension Office rejected the claim on the ground that there is no record of the soldier's contracting disease in service.

From testimony of reliable witnesses, who were very near neighbors to the soldier at the date of enlistment, it is proven conclusively that at that time he was in good sound bodily health, and free from any symptoms of consumption, and performed all sorts of heavy manual labor.

Two of the soldier's comrades testify that about November or December, 1864, while the regiment was at Winchester, Va., the soldier, from exposure in storms and snow during bad weather in the line of duty, was taken sick with a heavy cold and complained of pain in his lungs, and being unfit for duty was detailed as clerk at the colonel's headquarters; that when the regiment left Winchester, in February, 1865, the soldier was unfit to go with the Army for duty, and they did not see him again until after discharge, when he was completely broken down in health.

It is shown that on the return of the soldier to his home after discharge he was weak and debilitated, and suffered from a severe cough, and discharged largely from the throat and nostrils; that he gradually grew worse, and from 1866 to 1870 it seemed to increase materially, finally ending in being the cause of his death.

Charles R. Nelson, a druggist, testifies that the soldier for years bought drugs of him. The character of the drugs consisted of phosphates and other drugs for lung disease and toning up his system, and from the time the soldier returned home from the service he had the appearance of a person with lung disease, which continued until death.

Thomas Kays, a lawyer at Newton, N. J., testifies the soldier was employed in his office as a clerk from August, 1865, to April, 1870; that he was never able to do a full day's work, and enjoyed very poor health, discharging largely from the throat and nostrils, and gradually grew worse until his death.

Dr. Daniel L. Duncan testifies that he commenced treating the soldier in 1870, and found him suffering from phthisis pulmonalis; treated him until death, June 19, 1871, the primary cause of death being phthisis pulmonalis; secondary cause, apnœa.

The witnesses who testify are all reliable citizens, and the testimony given points so strongly toward showing that the disease of consumption, which caused the soldier's death, was the result of a heavy cold contracted in the service, that this committee deem this a meritorious case, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 903.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4723.]

The Committee on Pensions, to whom was referred the bill (H. R. 4723) granting a pension to Joseph E. Van Horn, have examined the same, and report as follows:

The committee find in the report of the House Committee on Invalid Pensions the following well-considered analysis of the facts and evidence, which they have verified by a close examination of the papers, and present the same herewith as their report.

Joseph E. Van Horn enlisted September 3, 1861; was discharged September 24, 1862. This soldier alleges that he incurred hernia of the left side July 2, 1862, by his horse having been shot at Malvern Hill, and in falling throwing him upon the pommel of the saddle. In an affidavit filed February 13, 1879, he states, when horse was shot he was riding to the front of the baggage-train to start the same for Harrison's Landing. Claim was rejected "on ground of claimant's inability to prove that the alleged hernia was received while in the Army."

Soldier further alleges in declaration that during the Seven-Days' fight he contracted piles, caused by exposure and being so much in the saddle. Also, at Malvern Hill, July 3, 1862, contracted rupture, left side; July 4, 1862, prostrated with typhoid fever at Harrison's Landing.

The Adjutant-General's report states: "August 31, 1862, he was absent, sick; discharged September 24, 1862, for disability." The records of the Surgeon-General's office state "that soldier was admitted to Buttonwood Street General Hospital, August, 1862, for treatment for nephritis, and was discharged from service September 24, 1862, by reason of nephritis."

Transcript from records shows soldier was admitted to general field hospital, Harrison's Landing, July 19, 1862, with bilious fever. His certificate of disability for discharge does not state why he was incapable of performing the duties of a soldier.

In the service, George W. Moss, late captain of claimant's regiment, testifies "that at Malvern Hill, July 2, 1862, soldier was ruptured in left side by being thrown on pommel of saddle." G. W. Simpson, late sergeant Company D, Sixty-seventh Regiment Pennsylvania Volunteers, testifies that "about July 2, 1862, at Malvern Hill, claimant was ruptured in left side in manner stated above."

Dr. H. P. Numuller testifies that—

"Claimant was healthy and well at enlistment; after he came home from service he was ruptured and troubled with piles. Affiant prescribed truss and gave medicine for piles."

Alexander Campser, late member of claimant's regiment, states:

"After Seven-Days' fight claimant was upon invalid list and unable for duty, and when Army moved from Harrison's Landing claimant left regiment; did not return."

George Kent and Archy McMichael, members of claimant's regiment, state:

"After Seven-Days' fight they took care of claimant, who was ruptured July 3, 1862, and also attacked with a fever, until the Army moved from Harrison's Landing."

Dr. H. P. Numuller again testifies to treating patient in 1862 for rupture in gro and piles. Hon. Robert Klotz, M. C., states that Dr. Numuller is of good standing.

Joel C. H. Conner and Merrit A. Brown, comrades, testify—

"To perfect soundness of claimant prior to Seven-Day's fight, and to the facts stated by other witnesses of the incurrence of rupture; and further, that since clai ant's return home know that trouble has continued and almost disabled him fr manual labor."

Sergeant Edward Paetzel testifies claimant suffering with piles and general debili contracted while "in line of duty."

Archy McMichael, George B. Kent, and M. A. Brown remember well that claima contracted piles at Chickahominy Swamp, brought on through exposure and consta duty in the service.

A. F. Campey testifies "to soundness of claimant on entering service, and to suffering with dysentery, diarrhea, and typhoid fever, contracted through expos in the Seven-Days' fight."

George Urquequhart, examining surgeon, certifies, October 12, 1875, "that cla ant has inguinal hernia of left side; does not wear a truss."

V. F. Boyd, examining surgeon, September 21, 1881, testifies:

"First, we find left inguinal hernia, with disability three-eighths degree; secon rectum prolapsed, sphincter relaxed to an uncomfortable degree, coming down large at each stool and a source of irritation (probably resulting from diarrhea). Disab ity from this cause one-fourth degree."

Your committee think that the proof that claimant's hernia was incurred while the Army is abundant, and to them unusually satisfactory, and they are equally positi that piles were the result of his military service. They therefore find no difficulty reporting favorably in this case and recommending that the bill do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 904.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5336.]

The Committee on Pensions, to whom was referred the bill (H. R. 5336) granting a pension to Benjamin S. Wolverton, have examined the same, and report as follows:

The committee find from their investigation of this case that Benjamin S. Wolverton entered the Army as a private in Company A, Fifteenth Regiment New Jersey Volunteers, in July, 1862, and was discharged in June, 1865.

His claim for pension is based upon alleged disability, resulting from a rupture received in October, 1864, by being thrown from his horse at Cedar Creek, Va., while in the line of his duty. It was rejected on the ground that there was no record on file showing such injury.

The committee are of the opinion, however, that the following evidence of physicians, officers, and comrades abundantly support the soldier's allegations:

Dr. George R. Sullivan testifies that he examined the soldier at the time of his enlistment and that at that time he was a sound man and free from rupture of any kind, and his statement is supported by Dr. John S. Lindaberry, the family physician of the soldier at that time, and by neighbors.

Manual Kline, the first sergeant of soldier's company, testifies that the soldier was detailed as regimental butcher at the time of the receipt of the rupture, and E. L. Campbell, lieutenant-colonel of same regiment, certifies to the truthfulness of his statements.

William Brant, the first sergeant of Company A, First New Jersey Veteran Volunteers, testifies that the soldier was ruptured by the fall from a horse while doing duty as a regimental butcher at the time and place stated, having been detailed with Brant to take charge of a herd of cattle, and states that after being thrown from his horse the soldier was so disabled as not to be able to mount again, and did only light duty afterwards, on account of his rupture of right side.

Daniel Philips, one of the soldier's comrades, testifies that the rupture was received as claimed, and that he was placed under the treatment of Dr. Sharp, the brigade surgeon, and as to seeing the soldier frequently use the remedies prescribed by him.

Naum Cregar, another comrade, supports his statements, as well as Benjamin F. Wean, also a comrade, who adds that he saw the soldier's rupture of right side, near the groin, some little time after it was received, while in the service, and that the soldier has suffered constantly from said rupture since his discharge.

From the testimony in the case it appears that the soldier has suffered continually from his rupture of right side since his discharge, and largely incapacitated for the performance of manual labor.

The committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 905.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5335.]

The Committee on Pensions, to whom was referred the bill (H. R. 5335) granting a pension to Philip Deremer, have examined the same, and report as follows:

The committee find from the papers in this case that this soldier was a private in Company B, Thirty-first Regiment New Jersey Volunteers.

He claims pension upon disabilities resulting from sunstroke while on duty at Falmouth, Va., in 1863.

The claim was rejected on the ground that there was no record of such disabilities.

Dr. P. G. Creveling, his family physician, makes affidavit that at the time of enlistment he was a sound, healthy man, and was in no way subject to nervous or chronic disease. There are nine affidavits made by as many of his neighbors, intimate with him before his enlistment, who, from personal knowledge, testify that he had never been troubled with sunstroke or epileptic convulsions therefrom previous to entering the service, and they had known him as a strong and robust man.

Three comrades of the soldier swear that they saw him when attacked by sunstroke on dress parade, and that of their own knowledge he suffered from epileptic fits and convulsions while he remained in the service, and was treated therefor by Dr. Jennings, one of the regimental surgeons, and another comrade heard the surgeon say it was sunstroke, as the claimant was being carried away. These comrades were all present at the time, as is shown by the Adjutant-General's reports, and from the pension inquiries are shown to be men of truth and veracity.

The testimony, since the soldier's discharge, is abundant as showing him to be continuously subject to epileptic convulsions, nine of his neighbors and employers making affidavits to that effect; and further, that they are so frequent as to render him unfit for any but the lightest labor and that at infrequent periods. Dr. S. A. McCash treated him for these convulsions, and states in his evidence that he was disabled from continuous work, and upon examination could find nothing to show hereditary troubles of this nature. The testimony of other physicians verifies these statements.

The committee therefore recommend the passage of the bill.

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EWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5702.]

Committee on Pensions, to whom was referred the bill (H. R. 5702) nting a pension to Jenet L. Johnson, have examined the same, and re- rt as follows:

is committee have carefully gone through all the papers in this and find the report of the House Committee on Invalid Pensions fully verified in its facts and statements. It is exhaustive, like- as to such facts and the evidence. They therefore adopt said re- as their own, as follows:

n Johnson, late a private of Company K, Fifteenth Regiment New Jersey Vol- s, the husband of the claimant, in his declaration for pension alleged disability lisease of the head and kidneys, the result of typhoid fever contracted during ttle of Fredericksburg, Va., about June 1, 1863.

upport of his claim he filed a certificate from forty reliable citizens residing near date of enlistment into service, who certify that at that time he was sound, d good health, and had a robust constitution; besides affidavits from officers hers, who testify from personal knowledge, and substantiate their statements, so an affidavit from Dr. George R. Sullivan, the assistant surgeon of his regi- who testifies that he was a sound and well man when mustered into service.

eral officers and comrades of the same company testify to the illness of the sol- service, and as to its being contracted as alleged, and the Adjutant-General s him absent sick from June 26, 1863, to November 12, 1863, when discharged on n's certificate of disability.

Surgeon-General reports him admitted to Newton University Hospital, Balti- Md., July 2, 1863, with typhoid fever; admitted to hospital, Bedloe's Island, ork Harbor, July 13, 1863, and admitted to General Hospital, Newark, N. J., 7, 1863, with diarrhea, and transferred to provost marshal, July 29, 1863, and rged from service at Camp Corral, Alexandria, Va., November 12, 1863, by of premature old age—over fifty years.

Sullivan, the assistant surgeon, testifies that he was taken sick with typhoid n the service and sent to general hospital.

soldier died April 30, 1880, and the widow, in her declaration for pension, al-

panied with complete suppression of the urine. He died April 30, 1880, the immediate cause of death uræmia, with blood-poisoning incident to pneumonia."

It is also shown that the soldier on his return home after discharge was broken down in health and greatly debilitated, and suffered continuously from disease of the kidneys and resulting troubles, and was largely disqualified for labor; that he gradually became worse and his troubles more chronic until he failed in health entirely and took sick and died.

The original claim of the soldier was referred to Dr. T. B. Hood, of the Pension Office, for his opinion whether, from a medical standpoint, the presumption is in favor of the opinion that the soldier's disability is due to typhoid fever or other diseases, for which he was treated while in the service; he replied:

"The presumption, from a medical standpoint, is in favor of typhoid fever and chronic diarrhea, one or both, as exciting cause of existing disability, disease of kidneys, especially if the last named existed at time of his discharge or soon thereafter. The facts in this case as to cause of disease of kidneys can only be determined by the evidence.

"The soldier undoubtedly was a sound man at date of enlistment, and after his return home from the service was weak and emaciated and afflicted with the disease of kidneys, and from the testimony in the case, allowing the claimant the benefit of any slight doubt, it can easily be presumed that death ultimately was caused by the disease of kidneys or chronic nephritis, the result of typhoid fever contracted in the service."

The committee, believing this to be a deserving case, therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 907.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1279.]

The Committee on Pensions, to whom was referred the bill (H. R. 1279) granting a pension to Darius M. Seaman, have examined the same, and report as follows:

The committee find, upon examination of the papers, that the claimant, late a private in Company C, One hundred and fiftieth Pennsylvania Volunteers, received a gunshot wound through his left arm by the accidental discharge of his own gun. The effect of this was to wither the arm, which is nearly lifeless and wholly useless. In extracting the ball about 4 inches of bone was taken from the arm, which incapacitates him from manual labor.

The evidence of Lieut. Col. H. S. Huidekoper, of the One hundred and fiftieth Pennsylvania Regiment, is to the effect that the soldier was with his company, C, at the time of the accident, and was wounded December 20, 1862, by the discharge of his own gun, the ball passing through the left forearm, for which he was honorably discharged. This testimony is further corroborated by H. H. Davis, lieutenant of claimant's company, who testifies from a personal knowledge of the circumstances.

The claim was rejected by the Department on the ground that the soldier was not in the line of his duty at the time of receiving the wound. The committee believe the contrary to be true, and, following an uninterrupted line of precedents in this class of cases by Congress, recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 908.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. COLQUITT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 247.]

The Committee on Pensions, to whom was referred the bill (H. R. 247) granting a pension to Lewis Tyus, have carefully examined the same, and recommend the passage of the bill.

The subjoined House report, which the committee adopt, is a correct statement of the facts.

Lewis Tyus enlisted as a private in Company A, Captain Augney's Battalion of Missouri Volunteers, on the 15th day of June, 1846, at Fort Leavenworth, to serve in the Mexican war. He was honorably discharged at Santa Fé, June 14, 1847. He re-enlisted for the war at Santa Fé, July 13, 1847, and was honorably discharged at Independence, Mo., on the 27th of October, 1848, as a private in Company D, Santa Fé Battalion Missouri Volunteers.

Mr. Tyus while in the service contracted scurvy, and from the effects of the disease lost his teeth and lost almost the sight of both his eyes. He is nearly totally blind. He has not been able to find any surviving comrade or commissioned officer or surgeon by whom he could prove the foregoing facts. No record can be found showing his treatment for this disease; but none can be found contradicting in any particular his sworn statement. He is supported in all other respects by the records in the Adjutant-General's Office. His present condition of blindness, now nearly complete, is fully established. A large number of reputable citizens, his neighbors, who have known him for periods ranging from ten to twenty-five years, certify to his good character and trustworthiness, and state they have always found him honorable, upright, and truthful. Mr. Turner, a member of the House, knows him, and believes his statements. Mr. Tyus was also a soldier in the Seminole war of 1836.

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ONGRESS, } SENATE. { REPORT
ession. } { No. 909.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

DRICH, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2232.]

mittee on Pensions, to whom was referred the bill (S. 2232) granting ension to Mary Martin, have examined the same and, report:

Thomas J. Martin was a private in Battery B, First Rhode Isl- ht Artillery, from the 13th of August, 1861, to the 18th of De- 1861, when he was discharged for disability. He afterwards, 21st of August, 1862, enlisted as a private in Company C, Second usetts Volunteers. While on his way to join his regiment it from the testimony that on the 31st of August, 1862, in the Fall River, Mass., he was accidentally knocked down, run over, rerely injured. He was taken to New York, and to the New d rooms for treatment, and remained there a number of weeks. aving New York, and while searching on the south side of the c for his regiment, he voluntarily joined Company B, Second Volunteers, and was engaged with that company in an action 21st of September, as appears from the following certificate:

ENCAMPMENT SECOND MAINE VOLUNTEERS,
September 21, 1862.

to certify that the bearer, Thomas J. Martin, who has lately left the hospital ch of his regiment and not straggling about the country. That in the action r in crossing the river he joined my company, picked up a musket, borrowed ion of my men and done his duty like a soldier.

W. S. MUDGETT,
Captain Company B, Second Maine Volunteers.

ally succeeded in joining his regiment in the latter part of Sep- 1862, but was sent early in the following December to the gen- pital at Frederick, Md., for treatment, and he remained contin- in various general hospitals until September 17, 1863, when he nsferred to Company C, Twenty-first Veteran Reserve Corps, on of injury to side and swollen limbs. He remained in the Reserve Corps until June 24, 1864, when he was mustered out. is abundant testimony that Martin was a good soldier, and it from the evidence that he was a strong, healthy man prior to e of enlistment, and from the evidence of neighbors it also ap- at he was a continuous sufferer and disabled from working at his y reason of his condition, resulting from his injuries up to the his death. The physicians who treated him during this time d, and there is no direct medical evidence of the cause of his out from a mass of collateral testimony your committee have no hat his death resulted from injuries received in the service and in of duty. They therefore recommend the passage of the accom- g bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 910.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. ALDRICH, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 8085.]

The Committee on Pensions, to whom was referred the bill (H. R. 8085) granting a pension to Amos C. Weeden, have examined the same and adopt the report of the House of Representatives, No. 1785, of the present Congress:

[House Report No. 1785, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions have received from the Commissioner of Pension a letter dated February 3, 1886, of which the following is a copy:

"Under the joint resolution approved May 29, 1830, which provides that meritorious cases for which there is no provisions of the general law be transmitted to Congress, I have the honor to transmit herewith the papers in the case of Amos C. Weeden, late second lieutenant and captain and acting assistant quartermaster, artillery brigade and First Division, Fifth Army Corps, application No. 209,047, to consider the propriety of placing his name on the pension-roll. It appears from the evidence in the case that he rendered service in good faith from April 22, 1862, and November 15, 1862, respectively, under commissions from the governor of Rhode Island, and was recognized as of those grades at the time by the duly constituted authorities of the United States. It also appears that while he was thus engaged he became disabled, and was discharged March 3, 1863, upon surgeon's certificate of disability because of subacute inflammation of the neck of the bladder, and has been troubled with his urinary organs continuously since his discharge. The claimant filed an application for pension October 12, 1875, alleging injury to back, resulting in spasmodic rheumatism, and in a subsequent declaration filed October 15, 1885, he alleges that the aforesaid injury also resulted in inflammation of the bladder and kidneys, and the claim was rejected January 29, 1886, upon the ground that claimant is not recognized as having been an officer of the United States Army, as shown by the report of the Adjutant-General, United States Army, in this case, under date of January 14, 1886.

"In view of the fact that the soldier did perform good and valuable services, and became disabled while in the said service, and is still suffering from disabilities, the result of his said military service, it seems to be a case worthy of the consideration of Congress with a view to special legislation to give title."

Accompanying the letter above quoted came the original papers filed in this case in the Pension Office, including the commissions issued by the governor of Rhode Island and other original papers relating to claimant since. The Adjutant-General reports that—

"Amos C. Weeden enlisted as a private in Company A, First Rhode Island Artillery, June 6, 1861, and discharged April 22, 1862, to accept promotion to second lieutenant in Sixth Rhode Island Volunteers. Cannot be recognized as a commissioned officer Sixth Rhode Island Volunteers, said regiment having failed of organization. He appears to have entered on duty without muster, and is first borne on muster-roll of Company D, Fifth United States Artillery, for March and April, 1862, as second lieutenant, Sixth Rhode Island Volunteers, by order of governor of Rhode Island, April 22, 1863. Assistant quartermaster division of artillery by Special Order No. 147, Porter's division, April 25, 1862. Drew pay as second lieutenant Sixth Rhode Island Volunteers on muster and pay roll of Company D, United States Artillery, to Septem-

ber 30, 1862. Was relieved from duty with the division artillery and assigned to duty as acting assistant quartermaster, Griffin's brigade, July 27, 1862. He first appears as captain in orders from division headquarters, announcing him as assistant quartermaster of First Division, Fifth Army Corps, November 15, 1862. There is no record of his having been paid as captain. The following order also appears of record:

"[Special Orders No. 46.—Extract.]

"HEADQUARTERS FIFTH ARMY CORPS,
"*Camp near Falmouth, Va., March* 3, 1863.

"The following-named officers, having tendered their resignations, are honorably discharged from the military service of the United States on surgeon's certificate of disability:

"Capt. Amos C. Weeden, Sixth Rhode Island Volunteers.

* * * * * * *

"By command of Maj. Gen. G. G. Meade.

"_____."

Notwithstanding all this evidence of service in his possession, the Adjutant-General, under date of January 14, 1886, positively refuses to recognize Weeden as an officer in the service, for the reason that the Sixth Rhode Island Volunteers failed to complete its organization, and that he declined his appointment as captain and assistant quartermaster of volunteers.

The declination of this appointment was due, however, to disability contracted prior thereto.

Medical examinations show claimant greatly disabled by reason of disease of kidneys and rheumatism, disabilities shown to have been contracted in the service and line of duty.

Your committee concur in the opinion of the Commissioner of Pensions that the case is worthy of the consideration of Congress, and that, inasmuch as the technical ruling of the Adjutant-General would defeat a meritorious claim, relief should be afforded to the claimant, and therefore beg leave to submit the accompanying bill and ask that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 911.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. ALDRICH, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2144.]

The Committee on Pensions, to whom was referred the bill (S. 2144) granting an increase of pension to Grace F. Edes, have examined the same, and report:

That Benjamin Long Edes was appointed a midshipman in the United States Navy September 23, 1861, promoted to ensign in March, 1868, to master in August, 1868, to lieutenant in April, 1869, and to lieutenant-commander in April, 1881.

During the period of his service he was for a large portion of the time at sea; he also served at the Naval Observatory, in the Hydrographic Office, and in the Ordnance Department. In 1881 he was ordered to the torpedo station at Newport, R. I., and while in service at that station he was killed by the premature explosion of a torpedo on 29th of August, 1881. He was at the time in a boat with Lieut. L. G. Spalding, engaged in laying a mine in the stretch of water in front of the torpedo station, when, by some unknown cause, the mine, consisting of some 25 pounds of powder, was prematurely exploded, killing Lieutenant Edes instantly, and mutilating his body in a horrible manner.

His widow was left with two small children dependent upon her for support. She was completely prostrated by the manner and suddenness of her husband's death, and for a long time was wholly incapacitated from the physical exertion necessary to maintain herself and family, and she has never recovered from the shock to her nervous system.

In view of these circumstances the committee recommend the passage of the accompanying bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 912.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands submitted the following

REPORT:

[To accompany bill H. R. 5891.]

The Committee on Public Lands, to whom was referred the bill (H. R. 5891) to authorize a patent for the south half of the southeast quarter of section 34, in township 22, of range 15 east of the sixth principal meridian, to Elizur B. Hall, as administrator of the estate of William Frederick Schlagel, have had the same under consideration, and submit the following report:

The material facts appear in an affidavit of Mr. Elizur B. Hall, who resides at Le Roy, Coffey County, Kansas, who states therein—

That he was appointed administrator of the estate of William Frederick Schlagel, deceased, by the probate court of Coffey County, Kansas, by letters of administration bearing date July 19, 1879. That he was acquainted with Schlagel in his lifetime, and knows that he was the person who made homestead application No. 3626, of date of February 5, 1872, for the south half of southeast quarter of section 34, township 22, range 15 east of the sixth principal meridian, of the lands subject to entry at the land office at Topeka, Kans. That the said Schlagel became insane about July 2, 1879, and was placed in the poor asylum, and that on the 11th day of July, 1879, said Schlagel, in his derangement, jumped into or fell into a well and died.

That when he was appointed administrator of said estate the final proof of said homesteader had not been made, and he, as such administrator, made said final proofs and obtained from the receiver of the United States land office at Topeka, Kans., final certificate No. 2454, for said land running to me, "Elizur B. Hall, administrator of the estate of William Schlagel," and bearing date September 9, 1879.

Afterwards, supposing the patent would of course issue in accordance with said final certificate, I, as administrator, petitioned the probate court of Coffey County, Kansas, for an order to sell said real estate to pay said indebtedness, which order was granted, and a sale and conveyance made by me and confirmed by the court and the proceeds applied to pay said debts and the expenses of administration, and a final settlement was made by me after paying all said claims, and the whole of said money coming to my hand had been exhausted.

It was supposed by me and by the purchaser of said land that the administrator's deed carried the title to the land to the purchaser, and I know that all the subsequent purchasers labored under that supposition and paid for said land in good faith.

Affiant further says that at and after the decease of said Schlagel, this affiant sought, by advertisement, inquiry, and correspondence, to find some kindred and heirs of said Schlagel, but was unable to find any relative of said decedent; and the relatives, if any, of the decedent are unknown to affiant, and affiant verily believes that said William Schlagel died intestate, leaving no wife or other heirs within the United States.

The law did not authorize final proof to be made by the administrator, and there does not seem to have been any widow or other person authorized by law to make final proof. The good faith of the administrator in this transaction cannot be questioned. The land is now in the hands of an innocent purchaser for a valuable consideration, and with the following amendments we recommend the passage of the bill:

In line 3, after word "to," insert "the grantee of," and in line 6, after the word "meridian," insert "State of Kansas".

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 913.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4688.]

The Committee on Pensions, to whom was referred the bill (H. R. 4688) granting a pension to Josephine Da Costa Thomas, have examined the same, and report:

That this case was considered by your committee and reported upon favorably (see Senate Report No. 729) at the present session. Since said report was made, additional evidence has been laid before us, which has induced us to ask that the bill be recommitted to us for further action.

It appears that the claimant is an educated lady, a native of a foreign country, but left in this city poor and without means of earning money to support either herself or her small children. She has two children, both girls, under the age of sixteen, and of course helpless and dependent upon their mother for their maintenance and education. One of these children is also in delicate health, while the mother, by reason of her want of American associations, is in a comparatively helpless and friendless situation. General Grant, General Sherman, and other officers of the Army acquainted with the circumstances of the death of this brave officer, have manifested a deep interest in her case as one of unusual merit.

Your committee, after a careful consideration of all the facts of this case, report back this bill with a recommendation that it do pass, with the following amendment: Strike out the word "thirty," in the fifth line, and insert the word "forty" in lieu thereof.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 914.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5899.]

The Committee on Pensions, to whom was referred the bill (H. R. 5899) granting a pension to Robert Beard, have examined the same, and report:

Your committee have carefully examined the facts of this case, and adopt the statement of the same as set forth in the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1211) hereto annexed, and recommend the passage of the bill.

The soldier alleges in his declaration for pension that while a private in Company B, One hundred and first Regiment United States Colored Troops, at Nashville, Tenn., May 2, 1864, a heavy box fell on his left foot, severely injuring his great toe, rendering amputation necessary, and that he was treated in hospital at Nashville.

Dr. W. J. McMahon testifies that he knew claimant prior to his entry into service, and that he was then free from the disability for which pension is claimed.

Henry Metcalf and James Brooks, two comrades in the same company and regiment with the soldier, and whose service and presence is verified by report from the Adjutant-General, testify that at Nashville, Tenn., about May 2, 1864, while detailed to unload a car-load of ammunition, a box of same fell upon the soldier's foot, injuring it to such an extent as to render amputation of the great toe of left foot a necessity; that they were personally present at the time, and saw the box fall on his left foot; that soldier was a sound, able-bodied man at enlistment and before the accident occurred. These witnesses also testify that they were present and witnessed the amputation of the great toe of soldier's left foot.

From a careful examination of the papers in the case it appears the amputation of the great toe of soldier's left foot has rendered that portion of his foot very tender and somewhat stiffened.

Constant use of it in walking produces pain, and on that account he is unable to do plowing and similar farm work; consequently, being a laborer, he is in a measure incapacitated for the performance of manual labor. The examining surgeon rated the degree of his disability one-quarter, and the medical referee of the Pension Office, in an opinion given July 19, 1883, states "that the claimant has been disabled in a pensionable degree from injury to great toe of left foot since discharge."

The injury was contracted in the service, and to some extent has disabled the soldier, and prevented him from performing certain kinds of farm work from which he gains his living, and therefore the committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 915.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7165.]

The Committee on Pensions, to whom was referred the bill (H. R. 7165) to increase the pension of Manhattan Pickett, have examined the same and report:

Your committee have carefully examined the facts in this case, the main points of which are briefly set forth in the following report of the Committee on Invalid Pensions of the House of Representatives (H. R. Rep., No. 1797):

The soldier is now in receipt of a pension for gunshot wound, described as follows by J. L. Stewart, president board of examining surgeons:

"Gunshot wound of posterior surface of left leg, leaving an ulcerated discharging wound 3¼ inches long over the lower part of the gastrocnemius muscle, the lower third of which muscle has been removed by inflammatory action and discharges, producing pain and weakness of the leg and ankle, and impairing his ability for manual labor, causing a disability equal to the loss of a hand or foot."

Dr. Pickett has appeared personally before your committee, and, having examined him carefully, they find the leg atrophied, with a large ulceration, which is evidently incurable.

The leg requires bandaging to be constantly renewed, and is offensive to the smell. This has impaired his general health and reduced it to so low an ebb that an amputation of the leg, though very much to be desired, would now be exceedingly dangerous and probably fatal.

Taking all things into consideration, your committee think that this pensioner would be better off had his leg been amputated.

In addition to the above, the following affidavit has been filed in support of the claim for increase, as follows:

CITY OF WASHINGTON,
District of Columbia, ss:

Alexander M. Lowry, after being duly sworn, deposes and says that he was late adjutant of the One hundred and twelfth Regiment New York State Volunteers; that he was attached to said regiment from August, 1862, until about September, 1864; that he was well acquainted with Manhattan Pickett, late a sergeant of Company B, of said regiment, who is now an applicant for a pension by special act of Congress by bill H. R. No. 7165; that he has known him since August, 1862.

Affiant further states that said Pickett was wounded at Cold Harbor in the line of duty; that he was immediately afterward taken to the hospital, where he remained until discharged and sent home. Said Pickett has never recovered from the effects of said wound, but is now entirely disabled and rendered utterly helpless and unable to do anything to support himself or family in consequence thereof. This wound has never healed, but on the contrary has continually grown worse until at the present time it is in such an offensive condition that it is necessary to dress the same at least twice every day. The soldier is himself an eminent physician and surgeon, one of the best in Western Pennsylvania, and has therefore been able thus far to prescribe for his own case; were he required to employ medical assistance it would take a much

larger amount of money to pay for the same than his present pension. He now r quires constant care, attendance, and treatment on account of the offensive and da gerous character of this wound and its discharges. Under its influence his health rapidly declining owing to the constant and severe drain upon his physical systen this is greatly enhanced by the continuous pain which he suffers on account of th wound, which has shattered his nervous system, and requires large quantities of opiat to be persistently administered in order to relieve the same, the effect of which h necessarily been very injurious. The said wound is several inches in length from tl knee down and the flesh is gradually sloughing off, the result of which is of the mo disagreeable character. He long ago would have submitted to amputation of the l above the knee were it not for the fact that he has been assured by the best medic authorities in that section that such amputation would probably result in death. Tl claimant has therefore continued to drag out a miserable existence, which it is the b lief of your affiant cannot probably be continued but a short time, and which it is ve probable may even be numbered by months.

Affiant further states that the claimant has a wife and one young child dependi upon him for support; that he is entirely without property or means; that he is eminent physician and would be capable, if physically able to attend to his profe sion, of securing a large and lucrative practice; that he has been surgeon of the Phi adelphia and Erie Railway Company, but, not being able to attend to the duties that position, must resign the same.

Affiant further states that the wife of said claimant has been his constant attendan and has given and is now giving a large portion of her time, strength, and energy t his care, and that but for her assistance he would be compelled to procure the con stant aid and attendance of another person, which he is now unable to do by reaso of poverty.

Affiant further states that he has no interest in the prosecution of the above clain

ALEX. M. LOWRY.

Sworn and subscribed before me this 4th day of May, 1886.
[SEAL.]

R. B. NIXON,
Notary Public.

Your committee think that the evidence shows a condition of this sol dier which will fully warrant the pension of $50 per month, as it woul seem that he requires the aid and attendance of another, besides con stant medical attendance. The bill is therefore reported back with recommendation that it do pass, with the following amendment: Strik out the word "thirty-six" in the sixth line, and insert the word "fifty.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 916.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1548.]

The Committee on Pensions, to whom was referred the bill (H. R. 1548) granting a pension to Ellen Crymble, have examined the same, and report:

Your committee have carefully examined the facts of this case, as set forth in the annexed statement, in detail in the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 795), which we adopt, and recommend the passage of the bill.

Stephen Crymble, the husband of the claimant, as shown by the proof, enlisted in Company E, Seventy-ninth Regiment New York Volunteers, as private, May 27, 1861, and was discharged October 4, 1862, by reason of loss of left arm, for which soldier received a pension of $24 per month up to his death, which occurred February 12, 1877.

The claimant's application for pension was filed June 16, 1877, and was rejected on the ground that disease of the lungs which caused soldier's death was not a result of the wound for which he was pensioned, nor was it in any other manner caused by his military service.

The records of the War Department show that the soldier was captured at Manassas July 21, 1861, confined at Richmond prison, Virginia, July 23, 1861, and paroled there January 3, 1862; also that soldier was wounded at James Island, South Carolina, June 16, 1862, while in battle in the line of duty, and discharged on account of the wounds received at that time.

A transcript from the records of the Surgeon-General's Office is as follows:

"Soldier was admitted to general hospital, Hilton Head, S. C., June 20, 1862, for treatment for gunshot wound, location not stated, and was transferred; sent north to hospital June 23, 1862. He was discharged from service at the hospital of his regiment October 4, 1862, because of loss of arm in action. No record of regiment or of James Island, South Carolina, on file. The records of surgical operations at this office show the following in this case:

"'Gunshot wound of left arm; ball entered at the elbow joint; received at James Island, South Carolina, June 16, 1862. Flap amputation of left arm at middle third July 28, 1862, at Jews Hospital, New York City. Length of stump, about 8 inches from the shoulder.'"

A letter dated Mount Sinai Hospital, Lexington avenue and Sixty-sixth street, New York, July 31, 1875, and addressed to John M. Cuyler, M. D., shows that—

"Stephen Crymble was admitted to the Jews Hospital July 12, 1862. Diagnosis stands on record 'fracture olecrani et antebrachii.' In same book he is said to have been discharged cured. Whether with or without amputation, or which arm was injured I cannot find, as the history is missing, as are many of the books of Jews Hospital of same date.

"Respectfully,

"J. RUDISCH,
"*House Physician.*

"Crymble was discharged September 11, 1862.

"Dr. KEEGAN."

Surgeon-General U. S. Army reports that the soldier was furnished an artificial arm March 8, 1869.

Capt. Robert Gavis certifies that while engaged at battle of James Island, South Carolina, June 16, 1862, the soldier received a gunshot wound in left arm, and the limb was amputated.

Dr. Robert Campbell testifies that he attended the soldier during his last illness, and he died of "phthisis pulmonalis" on February 12, 1877, while under said doctor's care: also that he knew the soldier, and when he first attended him, which was about three years ago (testimony under date of October 14, 1878), he was suffering from pulmonary consumption in a marked state. At that time his arm was healed, but he complained of great pain from it by the consequent loss of blood and vitality incident to the several operations performed in the double amputation of the arm.

Catherine Hughes testifies that she was very well acquainted with the soldier for over ten years before he enlisted and never knew of his being sick, but was possessed of more than ordinary good health until his return home from the Army; that then he was completely worn out and emaciated. Deponent knew him until his death, and from his return he was always troubled with a cough, unwell, and very little assistance to his family. Deponent believes his death was caused by consumption, the seeds of which were sown in the Army. He frequently told affiant that he had, as he feared so, caught a cold and that it would be serious for him.

Claimant testifies that before the soldier's enlistment he was in good health, and no doctor had ever been called to see him. Dr. Novel, who attended the soldier in the Army and after his discharge, she has been informed, is dead long since. The soldier began to grow convalescent about two years after his return from the war, but was unable to do any work or aid in supporting his family for about four or five years thereafter. About the expiration of that time he obtained the position of letter-carrier, and held the same for several years, but was compelled to give it up on account of ill health and pains in side and leg, on the side from which he lost his arm. He did nothing from that time for about six or seven months, and then obtained work as watchman, but was compelled to give up same; he lingered for over a year and was then attended by Dr. Campbell. In said intervals he went to Ireland; always tried to doctor himself. The only doctors who attended him were Drs. Novel and Campbell. The soldier looked no better when he returned from the Army than he did shortly before his death, always complaining of great pains in his side and leg and across his back. When he returned home first it was on a furlough for a month; he had then been released as a prisoner of war; he returned to the Army after the expiration of his furlough, and when he again returned he had been discharged for wound; his arm had been amputated in the Army hospital about the elbow, and after his return his arm had to be reamputated above the elbow; he suffered continually from the time of his discharge to his death.

William C. Clark, captain of Company I, Seventy-ninth Regiment New York Volunteers, and James Gilmour, adjutant of Seventy-ninth Regiment New York Volunteers, certify on honor substantially each as follows:

"That Stephen Crymble was a private in Company E; that said Crymble was honorably discharged, date not known; that said Stephen Crymble, of Company E, Seventy-ninth Regiment New York Volunteers, was wounded in the left arm at the battle of James Island, S. C., June 16, 1862, involving the amputation of that arm three times, causing intense suffering and a great loss blood to such an extent that it resulted in extreme disability, and by reason thereof, being subjected to exposure and wet in the marshes of South Carolina, his health was completely broken down, so much so that to the best of their belief he contracted the disease, consumption, of which he died, in the discharge of his duty, and that when he entered the service he was in sound health and free from all diseases, Clark being a sergeant in his company and knew him well at that time."

From the fact that the soldier was a sound, healthy man when he enlisted, but at the time of his discharge a physical wreck, having suffered from wet and exposure in the service, being incarcerated in a Southern prison for about six months, his arm being amputated three different times, rendered necessary from gunshot wound received in battle, it is safe to conclude that the disease from which he died was due to such exposure, confinement, and suffering.

Your committee therefore recommend that the bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 917.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4058.]

The Committee on Pensions, to whom was referred the bill (H. R. 4058) for the relief of Joel D. Monroe, have examined the same, and report:

Your committee have examined the facts of this case and adopt the statement of them as set forth in the report of the Committee on Invalid Pensions of the House of Representatives hereto annexed (House Report No. 693), and recommend the passage of the bill.

That Joel D. Monroe enlisted as a private, August 29, 1864, in Company C, One hundred and eleventh Regiment New York Volunteer Infantry, and was promoted to sergeant, and discharged with said company June 4, 1865.

He claims in his application for pension that at Stony Creek, Va., in December, 1864, while in line of duty, he was injured on the head by a falling tree, which resulted in injury to his eyes; and also at Petersburg, Va., in the winter of 1865, he contracted rheumatism, which has continued ever since, and disables him from labor. The claim was rejected on the ground of inability to furnish satisfactory evidence that disability originated in service and in line of duty. This case was given a special examination, and from the testimony taken the examiner said: "I am inclined to believe that the claim for diseased eyes is without merit, but that his claim for rheumatism is meritorious."

After a thorough examination of the evidence in the case your committee have no doubt that this soldier was sound at the time of his enlistment, nor that he was injured by a falling tree while constructing breastworks, but that said injury resulted in defective eyes is not clearly shown, but that he has been a constant sufferer from rheumatism contracted in the service we think is clearly established.

David A. Taylor, his captain, testifies to the injury by falling tree while constructing defensive works, and that immediately after, while suffering from said injury, he was exposed in a severe storm of snow and rain, by which he contracted rheumatism, which is shown to have been continuous by a large number of witnesses since his discharge.

Dr. McKinney says he treated him from August, 1869, to January, 1874, for sciatic rheumatism, and again from 1880 to present time for same trouble. The board of pension examiners, consisting of three physicians, examined claimant January 5, 1885, and report that there is tenderness over sciatic nerve, also evidence of sciatic rheumatism; his heart is irregular in action and his pulse 90; poor physical condition; we rate his disability seven-eighths of total.

From all the evidence in the case we think it is very probable that the disability was incurred in the service, and has not been aggravated or prolonged by vicious habits. We recommend the passage of the bill.

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ONGRESS, } SENATE. { REPORT
Session. } { No. 918.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

AIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6897.]

nmittee on Pensions, to whom was referred the bill (H. R. 6897) ing a pension to Henry Hipple, jr., have examined the same, and t:

committee have carefully considered the facts of this case, ıpt the statement of them as set forth in the report of the Com- ›n Invalid Pensions of the House of Representatives (House No. 1501) hereto annexed, and recommend the passage of the

Hipple enlisted in Company H, One hundred and twenty-seventh Pennsyl- lunteers, as a musician, August 6, 1862, and was discharged May 29, 1863.
ms a pension on account of rheumatism, alleged to have been contracted at 'ort Tobacco, Md., about November 29, 1862.
nsion Office rejected the claim on the ground that there is no record of treat- service or since, or other satisfactory evidence of incurrence.
ords of the Adjutant-General's office furnish no evidence of alleged disability.
ard of examining surgeons at Harrisburg, Pa., certify, in their report dated l, 1881, as follows:
r opinion the said Henry Hipple is three-fourths totally incapacitated for ob- is subsistence by manual labor, from rheumatism. Judging from his pres- tion and from the evidence before us, it is our belief that the said disability nate in the service aforesaid, in the line of duty. The disability is perma- pplicant has aortic valvular disease of the heart, due, probably, to rheumatic ıtis; blowing sound well marked. He states that he suffers pain in limbs, ;ially in lumbar region, during damp weather."
service.—Dr. George F. Mish testifies, August 13, 1882, that he was family ı of claimant's father prior and up to 1857, and that claimant was sound; ı 1857 to 1860 the family was attended by Dr. James Lowe, who is now dead, nant was a sound man at enlistment, and that if he had been otherwise he ıve known it.
Hyde and Samuel F. Treley, in affidavit filed August 13, 1882, testify that w claimant from boyhood, and that he was a stout, hearty young man, and rheumatism at enlistment.
ice.—Claimant states that he was not treated while in service.
Isaiah Willis testifies that claimant contracted rheumatism at or near Port Md., about November 29, 1862, while in line of duty. Knowledge from hav- ; lieutenant of the company, and being present in command at the time.
rvice.—Claimant testifies that he has not had medical treatment since dis-

Isaiah Willis, August 13, 1882, testifies that at different periods of the year ›harge claimant has had attacks of rheumatism so bad as to disable him from ; his occupation.
Hyde and Samuel F. Treley testify substantially the same as Lieutenant

It thus appears that this claimant was well when he entered the service; that he contracted rheumatism whilst in it, which disease still continues, and resulted in valvular disease of the heart. The board of examining surgeons find that the "apex of the heart is below the seventh rib and that the left heart is hypertrophied, and rate his disability at three-fourths total."

There remains no doubt in the minds of your committee that this soldier is now suffering from disability, the result of disease contracted in the Army. They therefore report favorably and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 919.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1078.]

The Committee on Pensions, to which was referred the bill (S. 1078) granting a pension to William C. Wirt (properly Wait), respectfully reports:

That the said Wait enlisted in Company C, Fifth Vermont Volunteers, war of rebellion, in Swanton, Vt., on August 15, 1861. He served in the West and was detailed for service on the gunboat Mound City. In the course of said service he was taken ill with disease of the liver, &c., and in the course of his transfers from hospital to hospital was at one time exposed on a stretcher on the deck of a vessel, and contracted thereby a disease of the lungs. He was finally discharged, and, on application, was granted a pension which afterwards, on the 31st October, 1877, was stopped. He was dropped from the rolls on the ground that his disease had not been contracted in the service, and that he had the same disease or difficulty with the lungs before he enlisted.

The committee is of opinion, on the whole evidence, that Wait when he enlisted was capable of doing military duty, and that the practical and positive disease which disabled him appeared and was caused by his military service and his exposure in the course of his transportations while ill from one hospital to another.

The committee is therefore of opinion that he ought not to have been dropped from the rolls, and ought to be restored as provided in the bill under consideration.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 920.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3135.]

The Committee on Pensions, to whom was referred the bill (H. R. 3135) granting a pension to Charles Sebring, have examined the same and report:

The facts upon which the increase asked by the above bill are detailed in the full report of the Committee on Invalid Pensions of the House of Representatives, hereto appended (House report No. 1205), which your committee adopt, and recommend that the bill do pass:

That Mr. Sebring is now receiving a pension of $30 per month on account of loss of his left arm above the elbow by a gunshot wound received in battle while he was a private in Company F, Forty-eighth Regiment Indiana Volunteers.

He filed an application for increase of pension on account of additional disability produced by two other wounds, one of the right forearm, the other the left thigh, received in battle at the same time and place as the wound for which he is now pensioned.

This claim for increase was rejected on the ground that his injuries had not resulted in permanent total helplessness, and that he is now receiving the highest rate authorized by law for a disability not requiring the regular aid and attendance of another person.

The board of surgeons at Kalamazoo, Mich., in their certificates dated September 28, 1883, state that the examination of the applicant reveals the following conditions:

"(1) His physical condition is poor; his left arm is off at junction of the upper and middle third; the cicatrix is adherent to a large neuroma, which is very sensitive and painful.

"(2) A ball entered over the head of the right ulna, fracturing it and making its exit on the inner side of the forearm over the ulna, at the junction of the middle with the lower third, injuring the ulna nerve. The index finger of the right hand can be straightened and the thumb is useful; the other fingers are flexed on the palm of the hand, but can be opened a little. He can carry a pail and can feed himself. Supination and pronation of the forearm fair. The forearm is a little shrunken and numb.

"(3) Gunshot wound of left thigh; the ball entered the upper portion of the middle third on its outer aspect, fractured or splintered the thigh bone and passed downward and inward, and came out on the inner aspect of the lower third. The upper portion of the left thigh is three-fourths of an inch smaller than the right. He complains of weakness of the thigh and pain in walking.

The wound of the left thigh has caused a disability which is rated by the board of surgeons at one-half.

The condition of the right forearm and hand contributes very largely to his disability; and while he is not in a condition of total helplessness entitling him to $50 a month, your committee think he is fairly entitled to some increase, and therefore recommend the bill be amended giving him $40 a month in lieu of the pension now received, and that the bill so amended do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 921.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3144.]

The Committee on Pensions, to whom was referred the bill (H. R. 3144) granting a pension to Isaiah H. Mitchell, have examined the same, and report:

Your committee have carefully examined the facts of this case, and find them as stated in the annexed report (House Report No. 1504), which we adopt, and recommend the passage of the bill.

That Isaiah H. Mitchell enlisted as private in Company C, Twenty-ninth Regiment Indiana Volunteers, in 1863, and was discharged December 2, 1865. In December, 1864, while in the military service, while handling a revolver picked up on the battle-field, he was wounded in the left hand by the accidental discharge of the same. He applied for a pension, but his claim was rejected on the ground that he was not in the line of duty when said injury was received. The fact of the injury at the time and in the manner as stated is fully established. The nature of it appears from the report of the examining surgeons as follows:

"I find the left little finger gone and one-half of the corresponding metacarpal bone; the ring finger of same hand cannot be opened straight, and cannot be closed on the palm by reason of a cicatrix in the palm. The hand is much weakened also by the loss of the thumb of the same hand, which, however, did not occur in the service. In my opinion the said Isaiah H. Mitchell is one-half incapacitated for obtaining his subsistence by manual labor from the cause above stated."

Our conclusion is that in this case the point as to "line of duty" is pretty finely drawn. The act of picking up the weapon from the battle-field was commendable and in the line of duty, but its accidental discharge and results not in line of duty. A moment before the accident and a moment after he was in line of duty. For so short a lapse he is crippled for life.

We think so strict a construction should not be held where the soldier is the sole sufferer, and therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 922.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2030.]

The Committee on Pensions, to whom was referred the bill (S. 2030) granting a pension to Miss Margaret Stafford Worth, have examined the same and report:

The claimant, Miss Margaret Stafford Worth, is the only surviving unmarried daughter of the distinguished Maj. Gen. William J. Worth. She is now living in the city of Washington, with seven of her father's grandchildren to support, in great poverty and without adequate means of subsistence. She has until now managed to support herself and these children, with some assistance, but is now confined to her bed and dangerously ill, so that she will henceforth be dependent on charity. It is a shame that the daughter of one of the most distinguished generals who ever served this Government, and who gave his life to her support, should be reduced to such an extremity in her old age. Congress has granted such relief in many cases of far less merit than this, and your committee think that it would be a fitting tribute to the memory of one of our bravest soldiers.

The following papers show the principal facts of this case, and your committee report back the bill and recommend that it do pass:

Petition of Margaret S. Worth to the United States Senate and House of Representatives for a pension.

William Worth, great-grandfather of Maj. Gen. W. J. Worth, U. S. Army, left Devonshire, England, on account of religious persecution, landed on the New England coast in 1640. Having protected and sheltered a Quaker, he, with two others, took refuge in a small boat, put to sea without chart or compass, and drifted to the island of Nantucket. There they soon became land owners, and resorted to the sea as a profession. Thomas Worth, his grandson, in time became an owner of ships, and moved to Hudson, N. Y., where he married, and there William J. Worth was born.

At an early age William J. Worth placed himself in the large mercantile house of Starr & Sheldon, in Albany, N. Y., where he served as clerk until, the war of 1812 breaking out, he was offered and accepted the position of private secretary to General Morgan Lewis.

Desiring more active service, he sought and received a commission as lieutenant in the United States Army, serving in every grade and always receiving the commendation of his superior officers and of his countrymen.

At the battle of Lundy's Lane he received a wound from which he never entirely recovered, and twice within your petitioner's memory the opened wound, after exposure in the field, produced inflammation and danger to life.

At the close of the war of 1812, with the brevet rank of major, he was ordered to West Point, where, for nine years, he bent all his energies to raising the standard of the institution to a point never before attained. While at West Point Major Worth

married the daughter of Mr. John Stafford, whose ancestors came to America in 160 a descendant of the family of Stafford of Warwick, England.

Col. Joab Stafford, Mrs. Worth's grandfather, was severely wounded in the Rev lutionary war, and his son was in the battles of Crown Point and Bennington.

Major Worth's next post was Fortress Monroe, where he was instructor in artiller While there he was sent with the Black Hawk expedition to quell the Indian troubl in the Northwest.

From Fortress Monroe he was transferred to the Ordnance Corps, and made i spector, which duty gave him an annual ride over the Alleghanies, at a period whe such a journey was attended with peril. He was then ordered to arrange for tl transfer of the Cherokee Nation to its new home on the Arkansas River.

In 1837 he was made colonel of the new regiment, the Eighth Infantry.

The Patriot war breaking out on the Canada border, he was instrumental in effec ing an amicable settlement of the disturbance.

He was then ordered to Florida, placed in command, conducted the campaign against the hostile Seminoles, and after many perils, from the climate as well as th military operations, in which he had five engagements with the Indians, he effecte a peace, which had until that time been fruitlessly sought by his predecessors, an removed the Indians from the territory to their new home west of the Arkansas.

While on this duty the little fortune which he had hoped to leave for the suppor of his family had, by the dishonesty of his attorney, been swept away. After the peace he desired to return to the North and endeavor to reclaim something out of the wreck, but being ordered to Mexico he was prevented from executing this intention, and his family never recovered a cent.

In Mexico he led his division in the battles of Monterey, Vera Cruz, Cerro Gordo, the advance on Puebla, Molino del Rey, Chapultepec, Churubusco, the Garita of San Cosme, and was the only general officer who slept within the city gate on that memorable night.

He was the first to land at Vera Cruz and the last to leave Mexican soil.

After the close of the war he was ordered to Texas, where the cholera was raging, and there he died, at the post of duty.

I, Margaret Stafford Worth, the only unmarried daughter, having seven of my father's grandchildren almost entirely dependent upon me for support, petition the gentlemen of the United States Senate and House of Representatives to grant me a pension of $50 a month.

BATTLES IN WHICH GENERAL WORTH WAS ENGAGED.

Chippewa, Niagara, Fort Erie, Lundy's Lane, five battles in Florida, Monterey, Vera Cruz, Cerro Gordo, Puebla, Churubusco, Chapultepec, Molino del Rey, battles of the City of Mexico, San Antonio, Garita of San Cosme.

Received the thanks of Congress, State of New York, State of Louisiana, State o Texas, State of Florida.

He received a sword from Congress, from the State of New York, the State of Lou isiana, city of Hudson.

A monument worthy of the city of New York was erected to his memory by it tizens.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 15, 1886.

Statement of the military service of William J. Worth, late of the United States Army, com piled from the records of this office.

He was appointed first lieutenant Twenty-third Infantry, March 19, 1813; pr moted captain, August 19, 1814; retained as captain, Second Infantry, May 17, 181 in the reorganization under the act of March 3, 1815, and as captain of the First A tillery, June 1, 1821, in the reorganization under the act of March 2, 1821; appointe major of ordnance, May 30, 1832, and colonel Eighth Infantry, July 7, 1838.

He was brevetted captain, July 5, 1814, "for his gallant and distinguished condu on the said 5th of July, in the battle of Chippawa;" major, July 25, 1814, "being tl day of the battle of Niagara, in which Captain Worth was distinguished by his ga lantry and good conduct;" lieutenant-colonel, July 25, 1824, "for ten years' faithf service in the grade of brevet major;" brigadier-general, March 1, 1842, "for ga lantry and highly distinguished services as commander of the forces in the war again the Florida Indians," and major-general, September 23, 1846, "for gallant and merit rious conduct in the several conflicts at Monterey, Mexico."

On May 2, 1847, he was presented by Congress with a sword of honor, "in testimon of the high sense entertained by Congress of his gallantry and good conduct in storn ing Monterey."

He served in the war of 1812-'15 with Great Britain, as aid-de-camp to Major-General Lewis, from some time in 1813 to April 6, 1814, and as aid-de-camp to Brig-Gen. Winfield Scott, also acting brigade-major in the campaign on the northern frontier until severely wounded in the battle of Niagara, July 25, 1814; absent wounded to December, 1814; aid-de-camp to Maj-Gen. Winfield Scott, commanding the tenth military district to April 6, 1815; on leave to August, 1815; with regiment, in garrison, at Sackett's Harbor, Greenbush, Plattsburg, N. Y., to August, 1819; on recruiting service to March 16, 1820; commandant of cadets and instructor of infantry tactics at the United States Military Academy to December 2, 1828, with regiment at Fort Monroe, Va, and on detached duty at that post, as director of the Artillery School of Practice, to May, 1832; commanding Fort Monroe Arsenal, Virginia, Frankford Arsenal, Pennsylvania, and Watervliet Arsenal, New York, to June, 1838; commanding his regiment at Madison Barracks, Albany and Ogdensburg, N. Y. (also from January to December, 1839, the Northern Department), to May, 1840; in Wisconsin Territory to July, 1840; *en route* and in the Florida war against the Seminole Indians (being also in command of the district of Tampa from January to May, 1841; of the army of Florida from May, 1841, to July 25, 1842, and of the Ninth Military Department embracing Florida, to August 22, 1842, and from October 31, 1842, to September 14, 1845; was absent with leave from August 22 to October 30, 1842), to September 26, 1845; commanding the First Brigade of the Army of Occupation in the war with Mexico, to April 8, 1846; on leave to May 27, 1846; commanding the First Brigade of the Army of Occupation, to July 27, 1846, the Second Division of that army to February 23, 1847, the First Brigade, First Division of Regulars inthe Army of Invasion, to April 1, 1847, the First Division to June 21, 1848, being engaged in the battle of Monterey, September 21-23, 1846; siege of Vera Cruz, March 9-29, 1847; battle of Cerro Gordo, April 17, 18, 1847; capture of San Antonio, August 19, 20, 1847; battle of Churubusco, August 20, 1847; of Molino del Rey, September 8, 1847; of Tacubaya, September 12, 1847, and of Chapultepec and San Cosme, September 13, 1847, also in the assault and capture of the City of Mexico September 13, 14, 1847.

He commanded the army in Mexico from June 21 to July 15, 1848, and the Eighth and Ninth Military Departments, comprising Texas and New Mexico, from November, 1848, to May 7, 1849, upon which date he died at San Antonio, Tex.

J. C. KELTON,
Acting Adjutant-General.

WASHINGTON, D. C., *April* 22, 1886.

The petitioner, Miss Margaret S. Worth, the daughter of Major-General Worth, who for many years was one of the senior officers of our Army, is now advancing in years, is in failing health, and is no longer able to earn sufficient for her support.

Being now thrown upon her own resources she is at present in almost destitute circumstances.

If Congress, in view of the distinguished services of General Worth, should deem it proper to extend the charity for which Miss Worth petitions they could not find a more worthy object.

P. H. SHERIDAN,
Lieutenant-General.

SAINT LOUIS, *April* 24, 1886.

I commend the foregoing petition to all generous men who love their country and its heroes.

General Worth was one of the most brilliant and conspicuous officers in the war of 1812, Mexican war, and Florida war. He died in the military service on the frontier. I know the petitioner to be his daughter, the only one, I believe, who never married, who has been toiling for years to support herself and help her sister's children. She is now old and feeble, and it will be a graceful act for Congress to recognize her as the orphan of the nation.

W. T. SHERMAN.

[Office of the Attending Surgeon, U. S. Army, No. 1733 G street northwest.]

WASHINGTON, D. C., *April* 20, 1886.

The COMMITTEE ON PENSIONS,
United States Senate:

GENTLEMEN: I have learned with pleasure that a bill has been introduced into the Senate conferring a pension on Miss Margaret S. Worth.

The services of her distinguished father are a part of the history of the country.

Miss Worth has been my friend and patient for a long time. I know that her means are narrow, and that her health is much impaired. She is suffering under profound nervous exhaustion, from which there is little or no probability of her recovery. Therefore she is not likely to ever be able to carry on the clerical work on which she has depended for a livelihood.

Trusting that Miss Worth's case may receive your favorable action,

I remain, your obedient servant,

R. M. O'REILLY, M. D., U. S. A.,
Attending Surgeon.

WASHINGTON, D. C., *April* 20, 1886.

GENTLEMEN: I desire to state that I have known Miss Margaret Worth, daughter of the late General Worth, United States Army, for some years, and have, upon several occasions, been called upon to prescribe for her, and know that her present state of health is very precarious; in my opinion, she is physically unfitted to discharge the duties of her office, and that a due regard for her health demands, for some time or permanently, absolution from those duties.

She is of a delicate, nervous organization, and confinement to business has been and must be injurious to her.

In view of the distinguished services of her father, and her present enfeebled condition preventing her from earning a proper livelihood, I think the granting of a pension would be most meritorious and deserved.

I am, very respectfully,

D. L. HUNTINGTON,
Surgeon, United States Army.

To the COMMITTEE ON PENSIONS,
United States Senate.

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, April 22, 1886.

To the Committee on Pensions, United States Senate:

I take the liberty of addressing you in advocacy of the application for pension made for Miss Margaret Worth, eldest daughter of the late Maj. Gen. W. S. Worth, United States Army.

I have known Miss Worth over thirty years, and know that her life has been devoted to the care and support of dependent descendants of General Worth, her sisters, nieces, and nephews. For some years she has labored as a clerk in a public office. Her health is now very much impaired, and she is almost incapacitated for further work.

I would most respectfully urge that a pension may be granted her.

I have the honor to be, very truly and respectfully,

R. MURRAY,
Surgeon-General United States Army.

It seems like presumption in me to bear testimony to the services of Major-General Worth, to whom the Congress of the United States and the legislatures of four States have voted their thanks and presented swords of honor; and to whose memory the great city of New York has erected a stately monument inscribed with the principal events in his distinguished career; his wounds, his battles, his commands from the war of 1812, as a mere lad, to his death nearly forty years after from cholera, at his post, as much a martyr to duty as if he had been shot on the field of battle.

His successful termination of the Florida war, as a general-in-chief, his brilliant services, as a general of division, in Mexico, are matters of history; but there were incidents with which history does not deal and which are known to me. He was habitually at the point of danger. This characteristic enabled him to snatch victory from three times his force at Molino del Rey, when a disastrous defeat seemed imminent, from mere force of numbers. He was the first general and one of the first persons in the City of Mexico when the gates of that town were carried by assault, and he was not only the last general, but the last person, in the Army to leave it at the end of the war. There were signs of serious disturbance and riot amongst the "leperos," the lowest order of the inhabitants, and he saw every soldier, woman, and child safely out of the gates before he himself left the city.

If it is possible for any man to establish such a claim on the gratitude of his country as to entitle a daughter to aid in her distress, then General Worth has established such a claim.

HENRY I. HUNT,
Brevet Major-General, U. S. Army.

WASHINGTON, D. C., *April* 7, 1886.

It was not my privilege to know General Worth personally as he died in the year in which I entered the Army. He died at his post of duty from a disease to the fatal effects of which the requirements of the public service compelled him to expose himself. Every officer who entered the Army about my own time can testify to the marks of high tone and elevated soldierly ideas which were impressed upon our small Army by his instruction, and his bearing as commandant of cadets, and by his distinguished conduct on many fields of battle in the interest of our country. He was the type of a soldier on which the heroes of the Mexican war, and those of our later struggle, on either side, tried to model themselves. If we were asked to grant a pension to the daughter of Andrew Jackson, I do not think there would be a dissenting voice in the nation, and I do not think there ought to be one to granting to the daughter of General Worth, who is in need of a slight tribute, in recognition of the distinguished services of her father.

A. BAIRD,
Brevet Major-General.

WASHINGTON, D. C., *March* 31, 1886.

The honorable Committee of Pensions, United States Senate:

I do not know well enough the pension laws to know whether Miss Worth is under them entitled to any pension arising out of her father's (General Worth) very distinguished and well-known services. I presume that it can be granted only by a special law.

When I went to West Point, 50 years ago, as a cadet, no name, except General Scott's, was more often spoken of by officers of the army. I grew up in admiration of his eminent qualities and high deeds as a soldier in the war of 1812 on the Niagara frontier, when he excited the admiration of his comrades, many of whom I learned to know.

He served with equal distinction through the war with Mexico, and died full of honors, and left little, I think, to his family except name and reputation. I shall be glad to learn that if Miss Worth, his daughter, needs it, she succeeds in obtaining a pension from the country he served so well in its and in his youth and manhood.

I am, respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster-General retired, Brevet Major-General U. S. Army.

The late General William Worth was a very distinguished officer in the Army of the United States, as his record will show. His eldest daughter, Miss Margaret Worth, now of this city, who is in feeble health, is applying for a pension, which I sincerely hope may be granted her.

D. H. RUCKER,
Brigadier-General U. S. Army, retired.

WASHINGTON, D. C., *April* 22, 1886.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 923.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4544.]

The Committee on Pensions, to whom was referred the bill (H. R. 4544) granting a pension to Ann E. Cooney, have examined the same, and report:

The principal facts in this case are stated briefly in the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1505) as follows:

That Ann E. Cooney was one of that noble band of women who from the beginning till the close of the rebellion devoted herself, her time, and energies to the comfort, care, and attention of our sick and wounded soldiers in field and hospital. From the breaking out of the war till October, 1862, she was engaged in collecting and forwarding from her home in Michigan hospital stores, then so much needed. At that date she began hospital work, which continued till October, 1864, when she engaged under Miss Dix as army nurse, serving in hospitals in Virginia and North Carolina till July 18, 1865. She was sent to Wilmington, N. C., to nurse our returned prisoners of war from Andersonville and Salisbury, doing the most arduous work, for which she has the commendations from Miss Dix, Surgeon-General Barnes, General Grant, Senator Chandler, surgeons in charge of hospitals, and soldiers' testimonials as to her valuable services in their behalf. Miss Dix relied upon her as one of her most efficient and trusty helpers, and she has many testimonials of her appreciation. Up to October, 1864, her services were volunteered, and for which she has received no compensation. While serving under Miss Dix she received pay as other army nurses. She is not in Government employ, and is dependent on her labor for her support; also an orphan niece.

Your committee think she should be given a pension. Nurses who served through the war and received no compensation have been granted a pension at $25 per month. This bill asks for that sum, but in consideration that Miss Cooney's services were not all voluntary, we amend the bill by striking out "five," so it will read *twenty*, and that so amended recommend that it do pass.

Your committee have carefully considered this case, and do not think that any reason appears why this case should have been made an exception to the general rule that has prevailed of giving nurses of this class $25 per month, or why another class, at the rate of $20, should be instituted. She should therefore have $25, and we report back the bill with a recommendation that it do pass, with the following amendment: Add after the word "twenty" in the seventh line the word "five."

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 924.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7330.]

The Committee on Pensions, to whom was referred the bill (H. R. 7330) granting a pension to Josie H. Babb, have examined the same, and report:

Your committee have carefully examined the facts of this case, and adopt the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1585) and recommend the passage of the bill.

John W. Babb, a musician in Company I, Fifteenth New Hampshire Regiment, was pensioned for malarial poisoning and effects. He claimed also for disease of lungs, but was unable to prove the incurrence of this disability to the satisfaction of the Department, and disease of lungs not being admitted as due to malaria, claim for increase on account of this disability was rejected. The testimony of Lieutenant Wallingford and Assistant Surgeon Jauvrin shows that Babb's sickness was of a most severe and protracted nature, culminating in a remittent typhus fever. Physically sound on entering the service, he was discharged badly wrecked in health, and secured a pension for a portion of his disabilities, as stated above. The disability for which he unsuccessfully claimed was the immediate cause of his death, which occurred October 26, 1879.

The same reasons which had operated against his claim on account of lung disease caused the rejection of his widow's claim.

Babb's own statement, while endeavoring to establish claim for lung trouble, was as follows:

"I cannot get medical testimony, on account of my not having employed a regular physician, having employed several different ones. I contracted a bronchial trouble while in the United States military service, in the year 1863, at Port Hudson, La. It began with a tickling in the throat and increased continually, and finally settled in my lungs. Since 1868 my lungs have been a little sore, especially the right one, but nothing that I considered bad until July 1, 1876, when I had a severe hemorrhage, and in the spring of 1877 I had another hemorrhage (I cannot remember the exact date). On April 19, 1879, I had another hemorrhage. Since the year 1863 I have been able to work but a part of the time. Since July 1, 1876, I have been unable to work at all. I never have had an attack of pneumonia in my life. None of my family were or are consumptive."

The evidence in this case leads to these conclusions: That Babb entered the service a sound man physically, contracted a disability of a most serious character, which continued with him until his death, and which rendered him incapable of performing any but the lightest labor, and that only a part of the time; that about 1868 a disease of the lungs had developed to such an extent as to attract serious attention, said trouble increasing until hemorrhages occurred, and he died as a result of them.

Without questioning the correctness of the decision of the Pension Office, we are convinced from the testimony on file that but for the proven wreck of his health in the United States service, he might to-day be living as the support of her who comes to Congress with this petition for relief. She is a poor woman, dependent upon her own labor for support.

We accordingly report the bill back to the House, and recommend that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 925.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3848.]

The Committee on Pensions, to whom was referred the bill (H. R. 3848) for the relief of H. P. McFarlin, have examined the same, and report:

Your committee have carefully examined the facts in this case, and concur in the findings of the Committee on Invalid Pensions of the House of Representatives, which we append hereto (House Report No. 748), and report back the bill with a favorable recommendation, with the following amendment: Strike out the words "restore to," in the fourth line, and insert the words "reinstate upon."

The claimant in this case, Hewlitt P. McFarlin, was a sergeant in Company I, Seventh Regiment Michigan Infantry, and was pensioned on the 11th day of May, 1871, at the rate of $6 per month, commencing January 5, 1863, for injury to leg received in the service and in line of duty. Some charge having been made against the claimant's right to a pension, stating that he had varicose veins before entering the service, and that his present disability comes from that cause and not from any injury received in the service, a special examination was ordered, which resulted in his being dropped from the rolls in May, 1878. Thereupon he made application to be restored, and the case underwent a thorough examination by a special agent, with a view of determining whether the present disability was attributable to varicose veins or the result of an injury received in the service. The special examiner examined twenty witnesses upon these points, and continued the investigation for more than two weeks, which resulted in a recommendation on the part of the special examiner that the claimant be restored to the rolls. The Pension Office rejected the claim for restoration.

The report of the special examiner covers all the points in controversy, and closes as follows:

"I deemed it necessary that the claimant be examined by a board of examining surgeons to determine definitely whether he is suffering or has suffered from any injury of left leg other than varicose veins. I accordingly took him before the examining surgeons of this city (Kalamazoo). That the claimant did have varicose veins upon his left leg at the time and prior to his enlistment there can be not a particle of doubt; but I do not believe from the testimony adduced that he was disabled by reason of them. I am of the opinion that an injustice has been done the claimant in dropping him from the rolls—not that he is entitled to a pension by reason of varicose veins, but by reason of the injury of the knee and bone of his left leg. I also believe that that injury greatly aggravated the varicose veins. I therefore recommend that he be restored to the rolls by reason of injury of left leg."

The board of surgeons, after describing the condition of the injured leg, say:

"The whole length of the left tibia is thickened, and a portion of the bone was removed while in hospital. The leg is badly injured, independent of the varicose veins, and the injury has caused and greatly aggravated the varicose veins, in our opinion. From the condition which we now find, it is our judgment that he is disabled by the same causes for which he was originally pensioned, and that his disability has not been aggravated or prolonged by vicious habits. He is, in our opinion, entitled to restoration, and we recommend a three-fourths rating for injury of leg, independent of varicose veins."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 926.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2336.]

The Committee on Pensions, to whom was referred the petition of Thomas Benson, praying for an increase of pension, have examined the same, and report:

The petitioner, Thomas Benson, served as a private in Company A, Thirty-second Maine Volunteers. He applied at the Pension Office and was granted a pension under the provisions of the general laws at the rate of $24 per month for amputation of left leg from March 3, 1883.

He files a petition with your committee asking for an increase on the ground that in addition to the loss of his left leg below the knee, for which he is now receiving all that is allowed by the provisions of the general law, he also has a shell wound in the right hip, some eight inches long and three inches deep, which is so near the spine that it affects that and the kidneys, and also his right leg and foot. His petition is signed by many neighbors, who ask that his claim be allowed. It appears that he is poor, and unable to labor to support his family.

Your committee, after a careful consideration of all the facts in this case, believe that the prayer of the petitioner should be granted, and accordingly report back the petition with an original bill increasing his present pension to $35 per month, and recommend that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 927.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. WILSON, of Maryland, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3941.]

The Committee on Pensions, to whom was referred the bill (H. R. 3941) granting a pension to Mary M. Galleyan, has carefully examined the same, and report, adopting the subjoined House report, and recommend the passage of the bill.

Your committee find that claimant is the widow of Joseph S. Galleyan, late a private of Company G, Fifty-ninth Indiana Volunteers. This soldier died November 2, 1873, of chronic diarrhea. The evidence shows that he was drafted January, 1865, and discharged July, 1865. The widow applied for pension in June, 1877, which was rejected, though no reason is given. The hospital record shows that the soldier was admitted July 3, 1865, with diarrhea. Samuel Rebstock testifies:

"The soldier was first taken with diarrhea about the 28th of April, which stuck to and disabled him until the time of his discharge. I lived within half a mile of said Galleyan after his discharge until in February, 1866, during which time I was intimately acquainted with him and he was never free from the diarrhea."

Dr. Samuel W. Gould says he treated him from August, 1868, till July, 1870, for the same disease.

Dr. John M. Rochhold testifies that he had been acquainted with him for about one year before his death; that he attended him at the time of his death, and that the immediate cause of his death was chronic diarrhea; that it must have existed for a long time prior to his acquaintance with him.

The widow declares her inability to furnish further evidence. The incurrence of the disease in the service seems to be fully established; that it existed February, 1866, and August, 1868, and continued until his death is also clearly shown; that he died from the effects of that disease is proven. The reasonable conclusion is that his death was caused by the disability incurred in service.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 928.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. WILSON, of Maryland, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3624.]

The Committee on Pensions, to whom was referred the bill (H. R. 3624) granting a pension to Fred. J. Leese, have carefully examined the same and report, adopting the subjoined House report, and recommend the passage of the bill.

This claimant was enrolled September 7, 1864, and was honorably discharged at camp near Washington, D. C., June 3, 1865. He alleges that while in line of duty at camp near Petersburg, Va., on November 15, 1864, he contracted chronic diarrhea, from exposure to the weather and severe work in the building of fortifications; that he has been a sufferer from said disease ever since. The proof as to his freedom from disease previous to service is satisfactory. After his discharge he mentions the names of three physicians who treated him for chronic diarrhea, but alleges satisfactory reasons why he is not able to procure their affidavits. He has also been procuring from Druggist Weis during the last four years various prescriptions and remedies for chronic diarrhea. Dr. Davis testifies that claimant was an office patient for about eight weeks during the year 1872 and was treated for chronic diarrhea. Dr. Kalloch testifies that he treated him for chronic diarrhea in the year 1871. Henry Ketzenmoyer testifies that while in the military service and in camp near Petersburg, Va., he first noticed soldier's ailment; that he lay sick in his tent, and that affiant made a decoction of white oak bark and gave it to him to allay and stop his diarrhea, but that it was ineffectual, and then he applied to the surgeon, whose name is, he is informed, H. A. Grim; from that time on he knew applicant intimately and continuously to the present; that he had this ailment at time of discharge and several times since; it is now in chronic condition; that he is not able to do any heavy work and at times is entirely disabled. Charles Y. Levan states that claimant has been in his employ for the past eleven years, "and a more sober and industrious man cannot be found; his disease is chronic diarrhea, and ever since he has been with us carries medicine in his dinner pail which he must take daily; oftentimes he is compelled to cease work on account of ailment."

The board of examining surgeons, January 23, 1884, state that an examination made at that date reveals the following facts:

"Claimant alleges having on an average about five stools per day; when the attack is severe many more, slimy and bloody in character. In general appearance claimant is not of vigorous health, pale complexion, flabby muscles, tongue furred and fissured, abdomen tender and somewhat tympanitic, increased dullness over liver, no definite trouble of spleen. The speculum shows great irritation and inflammation of the rectum."

The testimony shows that claimant incurred diarrhea while in the Army, and that it has continued ever since, interfering materially with his ability to earn a living; and your committee therefore report favorably.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 929.

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2263.]

The Committee on Pensions, to whom was referred the bill (S. 2263) granting a pension to Col. James H. Blood, have examined the same, and report:

The claimant, James H. Blood, was a lieutenant-colonel of the Sixth Missouri Volunteers. The main facts upon which the relief asked for in the present bill is claimed are particularly set forth in the following petition and affidavit:

Petition in favor of Col. James H. Blood, praying for a pension for total disability.

James H. Blood, then a resident of the city of Saint Louis, State of Missouri, raised the Sixth Regiment of Missouri Volunteer Infantry, largely at his personal expense, for which he has received no remuneration therefore, and was mustered into the military service of the United States with said regiment as lieutenant-colonel thereof about June 1, 1861, it being the first three-years' regiment mustered in from the State of Missouri. The regiment was assigned to the First Brigade of the Second Division of the Fifteenth Army Corps, and he served with it *until his disabilities compelled him to resign* in the spring of 1864, having in the mean time been promoted to the colonelcy of the regiment.

In the fall of 1861, while on a night scout after a band of bushwhackers or guerrillas in Southeast Missouri, he was felled from his horse by a severe blow on the back of his head, from the effects of which he has never recovered, having received severe mental as well as physical injury.

In 1862, while encamped near Memphis, Tenn., on returning from a reconnaissance, by the falling of his horse he was thrown violently forward against the pommel of his saddle, resulting in severe injury to the prostate gland and adjoining organs, causing severe stricture, from which he has continuously suffered since.

In the battle at Chickasaw Bayou, near Vicksburg, Miss., *while leading the charge* of the Second Division of the Fifteenth Army Corps, he was struck by a musket ball in left chest. The immediate result of this wound was the partial paralysis of the left arm, but the ultimate result was disastrous, causing atrophy of the heart, and all the muscles, bones, &c., of the left thorax, causing a shrinkage of the side affected over 3 inches, so that the slightest excitement or exercise tending to accelerate the movement of the blood and action of the heart causes excruciating pain and *complete prostration*, wholly incapacitating him from any physical or mental labor, and compelling him to wholly abstain from the usual avocations in order to insure relief from continuous suffering and prostration.

It is further represented that on his resigning from the military service of the United States, Colonel Blood had no intention of making any claim for a pension, believing that he had sufficient to keep him from want during his life, but in 1876 he was reduced to poverty, and has since been dependent upon his relatives and friends for support. It was not until 1881 that he was prevailed upon to make an application, which was filed in September, 1882.

After waiting until August, 1885, and despairing of getting any action on his claim he sailed for Europe, hoping thereby to relieve in some measure his sufferings. He

still remains abroad, unable to return in the present state of his health, which is con tinually on the decline. He is now under the care of physicians, and requires the con stant attendance of some person, as he frequently falls senseless, and often remains s for hours at a time His physicians claim that his heart is so affected that death i probable in any of these attacks of insensibility and prostration.

Finally, in October, 1885, a certificate was issued in his favor by the Pension Bureau at the rate of $15 per month, a sum wholly disproportioned to the extent of his injuries; for to those who have known him for years past it is self-evident that if he i entitled to any pension at all he is entitled to what he claims, a pension for total prostration, disability, helplessness, and necessity of constant attendance.

DISTRICT OF COLUMBIA, *ss.:*

Frank M. Fogg, being duly sworn, deposes and says that he is a resident of Lansing, Mich., and has been an editor and publisher for eight years past; that he fir became acquainted with Col. James H. Blood in 1877; that in 1878 the said Colon Blood, upon the advice and with the assistance of, ex-Governor Coburn, of Main purchased a third interest in the Greenback Labor Chronicle, which deponent w then publishing in Auburn, Me.; that during the time said Colonel Blood was business with deponent he was unable to perform any manual labor, but was on able to perform light clerical work; that he often complained of pains in his he which he claimed was caused by a blow on the head received during a skirmish the service, and from which he did not regain consciousness for nine hours; that suffered with stricture of the bladder, which he said was caused by an injury recei in the Army, to such an extent that it was often necessary to use a catheter before could get relief of the bladder; that he also suffered severely from a wound in th left shoulder near the collar bone, which he said was received while leading a charg of his division in the battle of Chickasaw Bayou, and this wound caused a partia paralysis of the left arm, and to such an extent that he had but little use of tha arm, and that wound so affected his side that it caused a contraction of the muscle and consequent contraction of the ribs to such an extent that the left side of his bod was much smaller than the right side.

And deponent further says that said Colonel Blood often had fainting spells and wa entirely prostrated and helpless for several hours at a time; that deponent first kne of this in February or March, 1879, while riding with said Colonel Blood in a sleig from Auburn to Augusta, Me.; that when within a few miles of Augusta Colonel Bloo partially fainted and remained in an almost helpless condition for two days; tha knowing the causes of his condition deponent then and several times thereafter ad vised Colonel Blood to apply for a pension; that Colonel Blood refused to do so, say ing he knew he was entitled to receive a pension, but he would not apply for a pen sion so long as he could live without it. That his condition continued to grow worse that in October, 1880, Colonel Blood was obliged to give up business entirely; that h was unable to do anything. In 1882 Colonel Blood attempted to take charge of a bakery in New York; that he there performed light duties for a few weeks and wa then obliged to give up all attempts to work in any way on account of frequent at tacks of fainting spells and utter prostration whenever he attempted the least exer tion, and from that time Colonel Blood lived with his brothers until last June, whe he visited deponent in Lansing, Mich.; that he was then unable to travel without a attendant, and was a great part of the time under treatment and care of physicians that he left deponent in August, 1885, intending to go to Europe for his health b advice of his physicians; that after arriving in New York he was prostrated from th exertion of the journey, and was confined in bed for about a month; that he afte wards sailed for Europe, where he is now, living on the charity of his friends.

Deponent says that he has been in frequent communication with Colonel Bloo since he has been in Europe, and from recent letters learns that his condition o health has not in the least improved, and that whatever change has taken place ha been for the worse, and that at present, on account of continued helplessness, he i not able to return to this country.

And deponent further says that he has no interest whatever in the claim of Colone Blood for a pension other than a friend who knows the claimant to be a man of stric integrity, sobriety, and honor, and entitled to a pension, not only for total disability but utter helplessness.

FRANK M. FOGG.

Subscribed and sworn to before me this 4th day of May, 1886.
[SEAL.] WILLIAM TWOMBLY,
Notary Public in and for the District of Columbia.

Among other things, it appears from the affidavit of Mr. Fogg that Colonel Blood is now absent in a foreign country on expense, and obliged to be at the further expense of an attendant there. The committee recommend the passage of the bill, which seems to be a small provision for his absolute necessities, and not likely to be wanted long.

The enforced absence of Colonel Blood from the country compels application for special legislation to secure relief. The very high testimonials of Generals Sherman and Smith and others attest the gallantry and patriotism of Colonel Blood, and his invaluable and disinterested service to the country.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 930.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1935.]

The Committee on Military Affairs, to whom was referred the bill (S. 1935) authorizing and directing the Secretary of War to enlarge, repair, and complete certain military quarters and barracks in Wyoming Territory and in the State of Nebraska, have had the same under consideration, and submit the following report thereon:

The bill suggests an appropriation of $200,000 to complete and to so enlarge the present quarters and barracks at Fort Robinson, in Nebraska, as to make that post suitable in size and accommodations for a garrison of ten companies; also to complete and repair the quarters and barracks at Fort Niobrara, in Nebraska, and at Fort D. A. Russell, in Wyoming.

A consideration applicable to Fort Robinson is found in the report of the Secretary of War for 1882, and a report of General Sherman for that year. The former suggests an abandonment of certain posts, which, because of changes on the frontier, had become useless.

This recommendation having been acted upon, in connection with General Sherman's in 1882, that Fort Robinson be retained, and the military policy of the Government in favor of concentrating troops at strategic points having become fixed and stable, it follows that greater economy, better discipline, and more ample protection will result if that policy is given that sustained and deserved support which prudence, justice, and the cause of humanity dictate.

The primary object of stationing troops at Fort Robinson and at Fort Niobrara is to hold in check 28,000 savage Sioux on the Sioux Reservation in Dakota, on the confines of Northern Nebraska. This tribe of hostiles is armed with the deadly Winchester rifle, and its warlike disposition has repeatedly left desolation and massacre in the track of its raids, and trouble therefrom may be again apprehended in spite of the civilizing influences at work to temper its ferocity. This is quite strongly hinted by Maj. Gen. O. O. Howard, in a report to the Secretary of War, dated September 19, 1885, the Sioux having previously left their reservation ostensibly on hunting expeditions, on which occasion there was a hurried concentration of troops from long distances, occupying much time and costing the Government a considerable sum of money.

Within the past five years Northern Nebraska and Southern and In terior Dakota have received such an influx of population that the home of settlers are found at the very threshold of the Sioux Reservatio and surround it on several sides, bringing the white man and the India in closer contact—well calculated to increase the danger of outbreak and the infliction of great loss of life and property in case of a sudde raid.

The situation is well described by General Schofield in his report t the Secretary of War for 1885. He says:

The great majority of the large frontier population are strangers to the earl history of the Indian country. They have settled there *since* the Indians were locat upon reservations. Relying upon Government protection, they are apparently u conscious of any danger, while in simple truth they are liable *at any moment* to e perience all the horrors of Indian warfare

Considering these facts, the close proximity of the Sioux to dens populations quite unconscious of danger and unprepared for an out-break, your committee are of the opinion that the present garrison of one hundred and seventy enlisted men at Fort Robinson is too small, and that it should be sufficient to render it probable that the effect of an increased force, as suggested, would be to hold in check any disposition on the part of the Sioux to take the war path.

The buildings at Fort Robinson were temporary in their character, and no repairs thereon have been made for many years, and they are now almost uninhabitable. In this connection the following communication from Maj. Gen. John M. Schofield seems pertinent:

HEADQUARTERS, DIVISION OF THE MISSOURI,
Chicago, February 9, 1886.

Respectfully forwarded to the Adjutant-General of the Army.

The fact that the Elkhorn Valley Railroad will pass Fort Laramie at a distance o 45 miles, while Fort Robinson is immediately on that road, greatly diminishes th value of the former and increases that of the latter post. Even if another railroa should hereafter be extended along the valley of the North Platte to and beyond For Laramie, Fort Robinson would still remain much the most important station, becaus of its close proximity to the Sioux Reservation.

Hence I suggest the construction of additional barracks and quarters at Fort Rob inson, and a corresponding reduction of the garrison at Fort Laramie. It would man ifestly be unwise to expend money in repair of the old buildings at Laramie.

J. M. SCHOFIELD,
Major-General Commanding.

While the buildings at Fort Niobrara may be large enough to accom modate the present garrison of 256 enlisted men, not unlike those at For Robinson, they were constructed of adobe, are not complete, and ar out of repair, and there is no doubt that a pressing necessity exists fo their completion and for such repairs thereon as shall place them beyon the danger of requiring a much larger outlay on repair account tha now exists.

Fort D. A. Russell, in Wyoming Territory, is one of the twenty-fiv military posts recommended in 1882 by General Sherman to be mad "permanent," and constructed of stone or brick, and there would seem to be no doubt of the necessity for the completion of present structure there, and for the suggested expenditure for repairs at that post.

The Lieutenant-General of the Army, in a letter to the chairman o the Committee on Military Affairs of the House, dated March 31, 188 says:

With reference to the completion of the barracks and quarters at Fort D. A. Ru sell, I would invite attention to my remarks of February 17, 1886, on House bill N 4367, from which I extract as follows:

"Fort D. A. Russell is three miles north of the Union Pacific Railroad and in th

suburbs of the city of Cheyenne. It is about midway between Chicago and San Francisco, and is connected by two direct railroads with Denver. It was established in 1867, and since that time has had, and still has, geographical advantages of location which will make it the rendezvous for troops, for equipment and distribution, for a long time. I consider Fort Russell a permanent post."

Fort Robinson is situated in the northwest corner of Nebraska, very near to the southern limit of the great Sioux Reservation and but a few miles from the extension of the Chicago and Northwestern Railroad. The nearest military post—Fort Laramie—has now lost much of its military importance, while the location of Fort Robinson will make it a prominent point for many years to come. The concentration of troops and erection of the barracks and quarters necessary for their accommodation is therefore a wise military measure. For these reasons I heartily recommend the enactment of the various measures contemplated by this bill.

Very respectfully, your obedient servant,

P. H. SHERIDAN,
Lieutenant-General.

Your committee beg leave to submit the following from the very able report of the House Committee on Military Affairs on House bill 7192, being a measure similar to the one under consideration. General Bragg, on behalf of that committee, says:

The second section of the bill provides for the completion of quarters and barracks at Fort D. A. Russell, in the Territory of Wyoming, and to enlarge and complete quarters and barracks at Fort Robinson, in the State of Nebraska, to a capacity for a garrison of ten companies; and $175,000 is recommended for these purposes.

The committee find that it will cost to complete Russell about $75,000, and nearly $100,000 to complete Robinson, and the bill therefore appropriates so much as may be necessary of $175,000 for the purposes named.

There has been a growing demand for years past to consolidate our troops on the frontier into larger garrisons, and the abandonment of a large number of small posts. It has been urged, in a military point of view, for strategic purposes. It is quite manifest also that it will reduce the draft on the line for details and thus increase the effective force for the field. It will increase the *morale* of both officers and men, by bringing together larger bodies of men, making drills practicable, and arousing that feeling of pride in the superior efficiency of companies, battalions, and regiments absolutely essential to make good soldiers of both officers and men. Men who have been choppers, teamsters, cooks, servants, and idlers soon become soldiers, and are proud of their buttons and the letter of their company. Officers find something to do to occupy their time instead of rusting out in sheer idleness, with its certainly attending vices. Large posts may be supplied cheaply with reading matter, and post schools may be supported, thus furnishing mental occupation as well as physical employment.

In an economical view this system should be carried into effect, because of the reduction in the enormous outlays for transportation now required, and the cheapness, relatively, at which a soldier may be maintained, as shown by tables appended.

It is desirable in a sanitary point of view, for comfortable and suitable hospitals can be maintained, and the sick be better cared for and at much less cost.

The advantages of the school and the maintenance of the two posts named are set forth in the letter of Lieutenant-General Sheridan, made a part of this report; but the committee cannot forbear calling attention, in addition thereto, to the proximity of the reservation of the Sioux and Cheyennes, 18,000 strong, to Fort Robinson.

These Indians, many of them, were in the Custer massacre, and are among the worst of their species, and have had a taste of white man's blood. If we wish to encourage outbreaks and the wholesale slaughter of defenseless men, women, and children, we cannot better do it than by having a handful of men at Robinson; but if we desire to prevent it give Robinson a garrison of sufficient size to cow down the savages by certain and immediate punishment.

It is necessary, as will be apparent upon a moment's reflection, that before the small posts can be abandoned and the troops be concentrated in larger bodies, there must be some place provided in which they may live in those inclement latitudes.

The committee in this bill hope to inaugurate the system which shall effect the good results hereinbefore described, and therefore give their hearty recommendation to it.

The suggestions and recommendations contained in the Exhibits A, B, and C, hereto annexed, made a part of this report, support the legislation proposed in the bill, and your committee therefore recommend that it do pass.

EXHIBIT A.

WAR DEPARTMENT,
Washington City, April 22, 1886.

SIR: In response to your letter of the 15th instant, inclosing, for the opinion of this Department, a copy of Senate bill 1935, providing for the enlargement, repair, and completion of certain military quarters and barracks in Wyoming Territory and in the State of Nebraska, I have the honor to invite attention to the inclosed copy of the Quartermaster-General's report on the subject, and its accompanying papers, which embody the views of the Department on the subject under consideration.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brig. General, Chief of Ordnance, and Acting Secretary of War.

Hon. CHARLES F. MANDERSON,
Of Committee on Military Affairs, U. S. Senate.

EXHIBIT B.

Respectfully returned to the honorable the Secretary of War, and attention invited to memorandum notes, from which it will be seen that in regard to expending $75,000 at Fort Russell he expressed his views on February 25, 1886, in a letter to the Hon. Mr. Casey, of the House Military Committee. In regard to Forts Robinson and Niobrara, it will be observed that plans and estimates are now in, calling for $82,054 for former and $36,950 for the latter post; that while these expenditures were recommended by General Howard, the division commander approved *only so far* as state of appropriation and demands of other posts would justify. As condition of current funds would *not admit* of any portion of the work being done during *this fiscal year*, it was thought advisable to hold the plans and estimates until a new appropriation became available, when the Quartermaster-General might be able to make some definite recommendation in the premises.

S. B. HOLABIRD,
Quartermaster-General.

EXHIBIT C.

WAR DEPARTMENT,
Washington, D. C., February 25, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant requesting my views on House bill 4367, Forty-ninth Congress, first session, which provides for an appropriation of the sum of $75,000, to be expended in completing the military post of Fort D. A. Russell, Wyoming Territory.

In reply, I beg to invite you attention to the following report of the Lieutenant-General, in whose views I concur:

"Fort D. A. Russell is three miles north of the Union Pacific Railroad, and in the suburbs of the city of Cheyenne. It is about midway between Chicago and San Francisco, and is connected by two direct railroads with Denver. It was established in 1867, and since that time has had and still has geographical advantage of location, which will make it the rendezvous for troops for equipment and distribution for a long time. I consider Fort Russell a permanent post. The large military depot is at the edge of the post and connected with the Union Pacific Railroad by a side track. This depot has been of more service during the past 18 years than any other depot in the country. We have held this valuable post until the present time by scanty repairs and patch-work, and now it is necessary to put it in good condition to make it habitable, and the amount asked for will suffice for that purpose."

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. J. M. CASEY,
Of Committee on Military Affairs, House of Representatives.

FORT ROBINSON, NEBR.

In February last, plans and estimates were received at this office calling for—

3 sets cavalry barracks	$20,332 38
4 sets infantry barracks	24,807 84
3 sets officers' quarters	18,170 07
2 storehouses	4,994 16
1 cavalry stable	1,750 00
Necessary repairs to post	12,000 00
Total	82,054 45

Approved by General Howard.

General Schofield recommended "that the additional barracks and quarters estimated for be constructed at Fort Robinson, as far as the state of the appropriation and demands of other stations will justify; the estimate for repairs is also approved."

FORT NIOBRARA, NEBR.

In March, 1886, plans and estimates were received at this office calling for—

2 double sets officers' quarters	$11,368 72
2 single sets field officers' quarters	9,369 46
3 single sets non-commissioned staff officers' quarters	3,609 12
1 band quarters	3,680 59
1 guard-house	2,148 62
1 ordnance storehouse	1,202 42
1 quartermasters' stable	2,454 78
1 granary	970 33
1 chapel	3,146 44
	36,950 48

Approved by General Howard; approved also by General Schofield, "as far as the state of the appropriation and the demands of other stations will justify."

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 931.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2349.]

The Committee on Pensions, to whom was referred the bill (S. 776) granting arrears of pension to Catharine Lanigan, have examined the same, and report:

That Catharine Lanigan was pensioned at the rate of $15 per month from March 18, 1882, as dependent mother of John Lanigan, who served as second lieutenant of Company I, Twenty-third Illinois Volunteers, and who died September 11, 1881. A very thorough examination of this claim was made by the Pension Office, and the fact that the soldier died from causes originating in the service was medically established. The dependence of the mother upon the son during his life is shown, and it also appears that she has been bed-ridden for years. Mrs. Lanigan is now eighty-one years of age, has long been a helpless invalid, and is dependent for support upon the pension allowed her and the exertions of her two daughters. Her title to a pension having been satisfactorily established before the Pension Office, and the rating allowed under the general laws being insufficient for her maintenance in her helpless condition, the committee considers this an exceptional case which justifies special action, and the allowance of a higher pension to Mrs. Lanigan during the brief time that she can receive any benefit from the bounty of Congress.

We therefore recommend that the original bill (S. 776) be indefinitely postponed, and the passage of the accompanying substitute bill, granting Mrs. Lanigan a pension at the rate of $50 per month.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 932.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1796.]

The Committee on Military Affairs, to whom was referred the bill (S. 1796) for the relief of Charles E. Maris, report as follows:

The committee desire to state that during the second session of the Forty-eighth Congress they had a bill similar to the present one for the relief of this man under consideration, which was reported adversely. The reasons leading to this adverse action obtain with the same force respecting the bill now before the Senate.

The committee desire, however, to present herewith and make a part of their report the following communication from the Adjutant-General of the Army:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 26, 1886.

SIR: I have the honor to return herewith S. 1796, Forty-ninth Congress, first session, directing the suspension of the operation of paragraph 1371 of the Army Regulations of 1863 so far as relates to Charles E. Maris, late a private of Company L, Eleventh Indiana Cavalry, who appears on the records of this office as having been discharged on the ground of minority when enlisted, and the issuance to him of an honorable discharge, to date March 21, 1865, transmitted by the Hon. W. J. Sewell, United States Senate, with request that the Senate Committee on Military Affairs be furnished with such information as may be in the possession of the Department relative to the bill, &c., and, in compliance with instructions thereon, to report as follows, viz:

Charles E. Maris, aged nineteen years, was enrolled January 15, 1864, to serve three years, in Company L, Eleventh Indiana Cavalry (One hundred and twenty-sixth Indiana Volunteers), and on the muster-rolls of the company to April 30, 1864, is reported "present," and on the rolls from April 30, 1864, to October 31, 1864, "absent, in hospital, sick [since], May 12, 1864."

On November 1, 1864, George Maris and wife, parents of the soldier, made application for his discharge on the ground of minority, and presented evidence that he was born August 10, 1848; that he enlisted without their consent, and that the bounty money received by him had been refunded.

The application having been submitted to and approved by the Secretary of War, Special Orders No. 55, paragraph 8, dated February 3, 1865, was issued by this office, directing the discharge of the soldier upon the receipt of the order at the place where he was serving, under paragraph 1371, Revised Army Regulations of 1863, which reads as follows, to wit:

"Every enlisted man discharged as a minor, or for other cause involving fraud on his part in the enlistment, or discharged by the civil authority, shall forfeit all pay and allowances due at the time of the discharge, and shall not receive any final statements."

The date of the discharge of this soldier under said order has been recognized by this office as February 15, 1865.

A report, similar to the foregoing, but embodying the views of this office relative

to the subject-matter of the bill (S. 2503, Forty-eighth Congress, second session), identical with the one in question, was furnished to the Hon. P. B. Plumb, United States Senate, on April 7, 1884.

I have the honor to be, sir, very respectfully, your obedient servant,

J. C. KELTON,
Assistant Adjutant-General.

The SECRETARY OF WAR.

The following is the communication from the Adjutant-General's Office to Hon. P. B. Plumb, referred to in the foregoing letter by the Adjutant-General:

ADJUTANT-GENERAL'S OFFICE, WAR DEPARTMENT,
Washington, April 7, 1884.

SIR: I have the honor to return herewith letter of Charles E. Maris, formerly a member of Company L, Eleventh Indiana Cavalry, an applicant for relief, so as to entitle him to bounty, referred by you on the 29th ultimo, with request for military history, &c., and in reply to inform you that the records of this office show this man enlisted January 15, 1864, stating his age as nineteen years; and that he was discharged by Special Order No. 55, Adjutant-General's Office, dated February 3, 1865; date of actual discharge not shown by the records.

The discharge of this man was ordered upon the application of his parents on the ground of his minority, and under paragraph 1371, Army Regulations of 1863, which provides that "every enlisted man discharged *as a minor* * * * or for other cause involving fraud on his part in the enlistment, *shall forfeit all pay and allowances, including travel allowances, due at the time of discharge*, and shall not receive final statements."

The bounty (an allowance) in this case having been forfeited by operation of law, this office can make no suggestion as to proper legislation with a view to relief requested by the applicant.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

Hon. P. B. PLUMB,
United States Senate.

Paragraph 71 of the Army Regulations for 1863, under which a large number of minors were discharged, governs all cases of this nature, as stated by the Adjutant-General.

To make an exception in this case would be simply to open up a question of magnitude, and under which a large number of claims would be presented. Your committee do not think this would be just to the Government, and therefore report the bill adversely.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 933.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4699.]

The Committee on Pensions, to whom was referred the bill (H. R. 4699) granting a pension to Martin Jacoby, have examined the same, and report:

Your committee have carefully considered the facts in this case, and adopt the statement of them as set forth in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1582), and recommend the passage of the bill.

Martin Jacoby is the dependent father of David Jacoby, late of Company C, Seventeenth Regiment Pennsylvania Cavalry, and of Martin Jacoby, jr., of the Seventy-ninth Regiment Pennsylvania Volunteers, both of whom were lost in the service of their country.

The basis of the claim is that David Jacoby contributed to his parents' support, and, in corroboration of the same, Martin Winger and James Ream, December 21, 1870, testify that soldier worked for them during 1859, 1860, and 1862, and they paid his earnings to his mother for support of herself and family.

David Jacoby enlisted September 17, 1862, and died of typhoid fever at Chestnut Hill General Hospital, Philadelphia, Pa., July 7, 1863.

Soldier's mother, Elizabeth Jacoby, filed application for pension in the Pension Office for the loss of this son, but the Bureau rejected her claim on the ground that she was not dependent upon the soldier for support.

The mother died January 30, 1879. The father, for whose benefit this bill was introduced, filed his application for pension September 3, 1866, and the claim was rejected by the Pension Office on the ground that the soldier's mother was living when said claim was made and filed.

There is no question or doubt as to the fact of soldier having been treated for and having died in the Government hospital of typhoid fever. The records are very clear as to that. As the soldier's mother is now dead the grounds upon which the father's claim was rejected are virtually set aside, and the claim rests upon the fact of dependence or non-dependence of parents, and the following evidence touching those points presented.

Dr. A. O. Bare testifies:

"Claimant disabled by heart disease and unable to perform any labor in 1863; and since."

James Ream and C. M. Quaid testify:

"The claimant has been in ill-health since before the soldier enlisted, and his earnings since the year 1863, and before that time, have been so small that they are of no account."

The assessment records of Lancaster County, Pennsylvania, show assessments against the claimant for each year from 1863 to 1876, inclusive, as follows:

"1863, $550; 1864, same; 1865–'66, $400; 1867, $400; 1868–'69, $245; 1870, $462; 1871, to and including 1873, $425; 1874, to and including 1876, $1,000. No subsequent assessment."

John G. and Eliza Root testify:

"Claimant is poor, and no means of support; that the house and lot he owned in Vogansville, Pa., has been sold for the payment of his debts; he is sickly and unable to make a living."

E. S. Zook, October 3, 1881, testifies:

"I purchased from claimant, on March 18, 1876, his house and lot in Vogansville, Pa., and paid him for the same $1,187.50."

C. O. Hoffman testifies:

"On September 4, 1878, Isaac Vogan, of Vogansville, Pa., made an assignment to me for benefit of creditors. At that time Martin Jacoby, claimant, occupied premises belonging to said Vogan, the rent of which was $194 per annum. In addition to the rent, affiant found that claimant was indebted to said Vogan on a judgment bond for $2,100, and the claimant made to affiant, as assignee of Vogan, the following payments, to wit: During 1879, $1,224.66; in 1880, by cash and credit, $979.67; in all, $2,204.43."

The public records, Lancaster County, show that Martin Jacoby, claimant, made an assignment on April 16, 1880, of his property in favor of his creditors, and that no balance was left.

This is one of the instances in which the holding the deed to a property is frequently accepted as a proof that the party holding the deed may be considered to be worth as much as the property would bring if sold. Unfortunately for this claimant, he all along owed more money than the property was worth, and its possession cost him more in the way of taxes and so forth than the income brought him. In addition, it has hitherto acted as a barrier to claimant receiving a pension as a dependent father. An examination of this case has satisfied your committee that this claimant had been in receipt of an income from the services of his son whilst living; that he has had a hard struggle to get along ever since his son's death. It is altogether probable that had his son lived he would not only have contributed to the support of his parents, but that also, having been raised to habits of industry and economy, he might have saved for his parents the little property which was sacrificed to their necessities. Your committee, for these and other reasons, believing this to be a meritorious case, report the bill favorably and recommend that it do pass.

C

9TH CONGRESS, 1st Session. | SENATE. | REPORT No. 934.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

r. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1560.]

he Committee on Pensions, to whom was referred the bill (H. R. 1560) for the relief of Evaline A. White, have examined the same, and report:

Your committee have carefully examined the facts of this case, which e fully set forth in the annexed report of the Committee on Invalid ensions of the House of Representatives (House Report No. 1190), hich we adopt, and recommend the passage of the bill.

That it appears from the papers on file in the Pension Office as follows:
That the claimant was married to George C. White at Fort Ann, Washington County, ew York, March 4, 1852; that said White enlisted September 3, 1864, as coal-heaver r one year, and served from that date to September 29, 1864, on the North Carolina; the Potomac from September 30, 1864, to January 31, 1865; on the J. C. Kuhn from ebruary 1, 1865, and on the Union from September 5, 1865, till his discharge, September 22, 1865; that he was discharged from the United States steamer Union September 22, 1865, having been sent North for discharge from United States bark Arthur. ese facts appear from the original papers.
Sylvester S. Holcomb testifies that he had at date of his affidavit, May, 1883, been practicing physician thirty-two years; that he knew said White from 1859 to his eath, and that he was the family physician for White from 1859 to the time of his listment up to his discharge up to 1870; that White at time of his enlistment was very large, strong, and well man, much more than usually strong and well; in fact, e of the best specimens of strong, athletic manhood that he (deponent) had ever town; that after White was discharged from the Navy and returned to his home, ponent was called to see him, which was immediately after his discharge and rn; that he found said White as follows: Suffering severely with malaria, with a llow, brown, dry, husky skin, very much emaciated, with a haggard look or aparance—so much changed that deponent and his family could not at first recognize m; that as a result of said sickness his liver was affected and his kidneys were re or less troublesome; that he treated him up to 1870, and since had been conlted by him up to 1880, and that White was able to perform but little manual labor.
Dr. Mosher testifies that he had known White since January, 1880, when he was lled to see him, and that he continued to treat him till his death, which occurred rch 17, 1883; that July, 1881, he was called to see said White, and found him suffing from malarial fever; found his kidneys diseased, apparently of long standing, d that he treated him for three months, when he went to the city of Albany, New rk, where he was treated, as he was informed by Dr. Vanderveer, for about four nths, when he returned to his home, and was attended by deponent till his death, d gives his opinion, from his examination, visits, and treatment of said White, that died from a disease of the kidneys that had been contracted for a long time; that en he first called to visit him said disease had been of long standing; that during e time he attended him, as above stated, said White had no other complaint or sickss other than malarial fever, pain across the back, and kidney trouble.

Dr. Carpenter testifies that he was the attending physician of White from 1872 to 1880; that his health was permanently broken down from malaria, contracted, as he believed, while in the United States Navy on the Southern coast.

Dr. Vandeveer, of the city of Albany, testifies that he treated White in the fall of 1881; that he was then suffering from caries of the left foot bones of the toes, and metatarsal, and chronic Bright's disease of the kidneys; there was a general anasarca, with a very marked waxy appearance of the face; the urine on examination contained from one-third to two-thirds albumen, with hyoline, with a few granular casts, and states that he was quite positive that his disease was of long standing and decidedly chronic in character; that his disability was complete; that the changes of the blood-vessels of the foot, which led to the caries, was the result of the disease of the kidneys.

Dr. John K. Walsh, surgeon of the United States steamer Mercedita from September 5, 1863, to December 5, 1864, states at length the sufferings and exposure of the men transferred from the shipwrecked steamer Aphrodite to his vessel, and by him delivered at certain points, the last being delivered at Pensacola. He shows that they were on short allowance of food and water, exposed to the sun, having no protection night or day but awnings; that especially from Key West to Pensacola the weather was very tempestuous, so as to prevent any attempt at cooking, and that there was intense suffering among the men.

Bentley Hascall testifies that he was assistant paymaster on the steamer Aphrodite; that in September or October, 1864, this steamer sailed to take supplies to Farragut's squadron; that he knew the sailor, White, who was there; that he was then a strong, powerful, impulsive man, in full health; that this vessel when she started had 450 men on board, to be delivered at different points along the coast; that the last were delivered at Pensacola to the steamer Potomac; that the Aphrodite was shipwrecked, and the men transferred to the Mercedita; that White was among the last delivered. He describes at great length and in detail the sufferings and exposure of the men, their scanty supply of food and water, their exposure to the sun and storm. The men were first landed on shore, sleeping in the sand, without food or shelter, and were thence transferred by lighters to the vessel, in darkness, while it was raining in torrents; that the voyage of the Mercedita from Beaufort, where the men were transferred from the Aphrodite, was very long and tedious—delayed for repairs and on account of heavy gales—the men having no shelter but an awning.

The committee think that the evidence clearly shows that White entered the service a strong, healthy man; that during this voyage, from the exposure, scant food, and drink, he contracted the malaria, with which he was afflicted at the time of his discharge and from which he died.

The claimant filed her claim to a pension, as the widow of said White, with the Pension Department, but the same was rejected, and the committee cannot find the reason for its rejection.

The committee think the case a meritorious one, and therefore recommend that the bill pass, amending the same by striking therefrom all after the word "Navy," in the sixth line, and inserting in lieu thereof the words "on the pension-roll, subject to the provisions and limitations of the pension laws."

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 935.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1707.]

The Committee on Pensions, to whom was referred the bill (H. R. 1707) granting a pension to Elijah P. Hensley, have examined the same, and report:

Your committee have carefully considered the facts in this case, and adopt the report hereto annexed of the Committee on Invalid Pensions of the House of Representatives (House Report No. 890), and recommend the passage of the bill.

The claimant was admitted to a pension of $4 per month on the rolls of the Raleigh, N. C., agency, December 17, 1868, commencing August 8, 1865, and paid to include March 3, 1877; was dropped from the roll August 3, 1877, on the ground that the pensioner was not in the service and line of duty when wounded, as shown by the report of Special Agent Ragsdale, dated May 31, 1877.

Claimant was a member of Company K, Third North Carolina Mounted Volunteers, having enlisted in said company in February, 1865, and was wounded at Indian Creek, Yancey County, North Carolina, March, 1865, having been cut off from his command in Tennessee, on House Creek, near Greeneville, Tenn. At the time claimant was wounded he was detailed by Colonel Kirk to join T. O. and J. W. Guthrie and others to get rations for themselves; that they returned within one hour and a half, but found that the command had left. The claimant with others then started for a point of safety in North Carolina, and to join their command, when overtaken and shot by the enemy, and wounded as alleged.

It appears that some time in 1877, owing to causes not material to this report, information was furnished the Pension Office that said claimant was not wounded in the line of duty. On this point there is a conflict of testimony on the time of claimant reaching his command, but none as to his being shot by rebels while in search of provisions for his command as he was detailed to do.

Your committee are of the opinion that claimant is entitled to a pension, and therefore recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 936.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5328.]

The Committee on Pensions, to whom was referred the bill (H. R. 5328) granting a pension to Noah Hoffman, have examined the same, and report:

Your committee have carefully examined the facts of this case as set forth in the report of the Committee on Invalid Pensions of the House of Representatives, hereto appended (House Report No. 678), and adopt the same, and recommend the passage of the bill.

The soldier was a corporal in Company C, Ninetieth Regiment New York Volunteers, and in his declaration for pension alleges that at Key West, Fla., in January, 1862, while doing picket duty, in attempting to jump a ditch, his bayonet to his gun caught in the bank, causing him to fall heavily, producing hernia of both sides, for which he was treated in regimental and post hospitals, and finally discharged March 6, 1862, on certificate of disability because of hernia.

From the testimony of the soldier's family physician and neighbors it is proven conclusively that prior to and at the time of his enlistment the soldier was in good sound bodily health and free from hernia of any kind. Some of the witnesses testify from personal knowledge, having seen the soldier in bathing but a short time prior to enlistment.

Isaac N. Smith and Nathan L. Tiger, two comrades, testify that the soldier received the hernia of both sides as alleged. Tiger, who was an eye-witness, states that an alarm was given in the night, and the soldier marched out with comrades, and in crossing a ditch in the dark the bayonet to his gun caught in the bank, and he fell, causing hernia of both sides. Both saw the rupture frequently in the service and almost immediately after it was received, and testify that he was treated for it in the service, and was obliged to wear a truss constantly.

The examining surgeon rated the soldier's disability from double hernia as total, and states "both are direct inguinal hernia. They can easily be replaced, but come down on either coughing or straining."

Affidavits from a number of claimant's neighbors show that since discharge he has suffered constantly from double hernia and obliged to wear a truss continuously, and that he is incapacitated for work at least eight months in the year.

Dr. W. C. Alpaugh testifies that the soldier has on the left side an oblique inguinal hernia of large size, which takes a great deal of support to keep it up. That the hernia of right side is not large, but affects him considerably, and adds that it is almost impossible for him to do any heavy work or lifting.

The Pension Office do not allow this claim because the claimant cannot furnish the testimony of another eye-witness to the receipt of his hernia.

From the quantity of testimony on file from reliable witnesses and the soldier's family physician, proving conclusively that the soldier was a sound man at date of enlistment, and from testimony presented from the soldier and his comrades, with the surgeon's certificate of disability, your committee are of opinion that said double hernia was received in service and line of duty, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 937.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1201.]

The Committee on Pensions, to whom was referred the bill (S. 1201) granting a pension to Louise Ambrecht, have examined the same, and report:

The claimant, Louise Armbrecht, is the widow of Augustus Armbrecht, late a sergeant of Company C, First Artillery, United States Army, who was pensioned by invalid certificate No. 154,495.

The widow presents the affidavit of S. H. Reynolds, the family physician, who states that he visited the soldier at the national cemetery in Mobile, Ala., and has had opportunity to observe his condition since his honorable discharge from the service; that he suffered from the effects of injury received in Mexican war—fracture of the right arm, followed by anchylosis of the elbow-joint; that the sight of his left eye was entirely destroyed, and unable to perform any manual labor since his discharge; that he died on April 15, 1885, and in his opinion his death was the result of injuries received in the United States service.

The following letter by Hon. Andrew Wylie, justice of the District supreme court, states the main facts in this case:

Mrs. Louise Armbrecht is the widow of Augustus Armbrecht, deceased, who was a soldier in the Regular Army, and died about one year ago at Mobile, Ala. Mrs. A. has two small children and is very poor, not having even a pension, although her husband served more than thirty years in the Army, and all through the war of the rebellion, and bore an excellent character. The reason for refusing the pension was that it did not appear from the evidence that he died in consequence of disease or wounds contracted in the service, but from some natural disease. Mrs. A. is a woman of irreproachable character, and is every way deserving of the kind attention of the benevolent.

Your committee are of opinion from all the evidence that this old soldier did die of the results of disabilities contracted during a service since 1836, when he first enlisted, and that his widow, who is now very poor, with two small children, should receive the small pittance which will be allowed for his rank.

We therefore report back the bill with a recommendation that it do pass, with the following amendments: Insert in the name in the title, and in the sixth and seventh lines, the letter "r," so that it shall read "Armbrecht."

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 938, and views of the minority.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BUTLER, from the Committee on Territories, submitted the following

REPORT:

[To accompany bill S. 980.]

he Committee on Territories, to whom was referred the bill (S. 980) granting right of way to the Cinnabar and Clark's Fork Railroad Company, having carefully considered the same, make the following report:

This matter was referred during this session of Congress to the Committee on Railroads, who, on the 9th of March last, made a unanimous eport, which your committee here present as a part of their report:

he Committee on Railroads, to whom was referred the bill (S. 980) granting right of way to the Cinnabar and Clark's Fork Railroad Company, make the following report:

They have given this bill very careful consideration, and report a substitute back o the Senate, and recommend its passage.

This company was organized under the laws of the Territory of Montana to contruct a railroad from Cinnabar, the terminus of the Livingston branch of the Northrn Pacific Railroad, on the Yellowstone River, about 5 miles north of the northern oundary of the Park, to reach the Clark's Fork mining district, in Southern Monana, lying a few miles north of the northeast corner of the Park.

This mining district has been known and referred to in many official communicaions from Government officers as a mining district of exceedingly great promise, of oth gold and silver, extending 12 miles east and west and 6 miles from north to outh.

It appears that the portion of the Park through which the railroad would pass conains no object of public interest to attract the attention of tourists, and that the reservation of the timber and game of the Park is more hindered and the game more xtensively depredated upon by the present and increasing travel upon the wagon oad than it would be under the operation of the proposed railroad. For most of the listance it would be confined to narrow ravines along the water-courses, not frequented by either game or travel; and when not in such ravines, it would follow the eneral route of the present wagon road.

The Park extends about 65 miles from north to south and 55 miles from east to west. ts boundaries have not been surveyed. Two maps have been submitted. If the map f the Geological Survey be accurate, the railroad would run at an average distance of bout 3 miles south of the northern boundary of the Park, reaching, at one point, by sudden turn of the East Fork, an extreme point of about 6 miles south of that boundry and for a very short distance. The total length within the Park would be about 5 miles.

If the map of Gallatin County, Montana, said to have been made from actual surey, be correct, the railroad would at no point penetrate the Park more than about miles, and at an average distance of not exceeding 1½ miles, and for a distance of bout 10 miles.

The committee further desire to state that they recommend this bill as a commercial ecessity only, and not to be regarded as a precedent for granting railroad privileges o any railroad company for tourist travel.

That these views are fully sustained by the evidence before your committee is shown rom the following brief extracts from documents submitted, and all of which are in he hands of the committee for the inspection of all who desire to examine them.

Lieut. Daniel C. Kingman, United States engineer in charge of improvements in the Park, in his report of 1883, asked Congress for an appropriation of $20,000 for the improvement of the wagon road in the direction of Clark's Fork mines, and says that the route is off the regular line of tourist travel; that the mines are said to be of unusual richness; that a large mining camp is growing up at Cooke City; that the present road is in a very bad condition—almost impassable—at certain seasons, and there seems to be no way of improving it unless it is done by the National Government; that being in the Park it does not belong to any county, and those people can hardly be expected to build it for themselves.

Hon. H. M. Teller, Secretary of the Interior, in answer to an inquiry from Hon. George G. Vest, says:

"The principal objects of interest to tourists are in portions of the Park remote from the route above mentioned. To refuse to afford to those interested in the development of this mining region the benefits of the cheaper means of transportation a railroad would supply merely because the railroad must enter the Park, and when its construction would not tend to subvert the purpose for which the Park was set aside, or interfere with the enjoyment of its wonders, would be unreasonable. In view of the apparent necessity for its construction, I do not know of any sufficient reason why the desired right of way should not be granted."

Mr. Henry Gannett, of the United States Geological Survey, who made the exploration of the northern portion of the Park, says:

"The road proposed is the only one practicable to reach these mines. The ridges of the Shoshone and Yellowstone Range trend in a general north and south direction, and any railroad attempting to reach these mines from the north must cross them nearly at right angles. These mountains are extremely rugged, and contain very few passes practicable even for pack animals. In my judgment a railroad on this route cannot injure the Park as a pleasure resort."

General Anderson, chief engineer of the Northern Pacific Railroad, in a letter of May 10, 1884, says:

"Any route to the Clark's Forks mines leaving the Northern Pacific Railroad east of Livingston must cross the main range of the Snow Mountains, which is very high and cannot be surmounted without the use of grades of probably 150 feet per mile. The Snow Mountains are noted for their heavy snowfall, which commences early in autumn and lie late in the spring. The only feasible route is by way of the Yellowstone River."

In a letter of January 28, 1886, to Hon. Senator Cullom, he says:

"The route up the Yellowstone River is the only practicable route."

He adds "that to reach the Clark's Forks mines by any other route would require a railroad to surmount an elevation of probably 9,000 feet above the sea-level, which cannot be surmounted except at great cost and grades exceeding 200 feet to the mile."

Numerous letters from other engineers confirm the statements of General Anderson that there is no practicable route to reach the Clark's Forks mines except by way of Yellowstone River, and the route proposed by this bill.

The people of Southern Montana are intensely interested, and have submitted numerous letters, memorials, and reports of public meetings, earnestly urging that the right of way be granted to this road, and the committee are of the opinion that it should be granted.

The same bill was introduced in the House of Representatives by Mr. Toole, the Delegate from Montana, and referred to the Committee on the Public Lands, and that committee on the 23d of last February made exhaustive and unanimous report with favorable recommendation, which report your committee adopt and submit as a part of their report.

[House Report No. 672, Forty-ninth Congress, first session.]

The Committee on the Public Lands, to whom were referred the bills (H. R. 2881 and H. R. 3756) granting right of way to the Cinnabar and Clark's Fork Railroad Company, respectfully report:

That they have given these bills very careful consideration, and unanimously recommend the passage of the accompanying substitute bill. They have reached this conclusion after careful review of the facts.

The company was chartered in 1884, under the laws of Montana, to construct a railroad from Cinnabar, a point on the Livingston branch of the North Pacific Railroad to Cooke City, in Southern Montana, a total distance of about 56 miles.

Cooke is the central point of the New World, or Clark's Fork mining district. Over 500 mines have been located and well prospected, and many of them in successful operation, within the range of a few miles from that point. This district is one of

emarkable richness, and your committee believe it to be of national importance that ts development should be promoted. It is located in a mountainous region, wholly naccessible by any practicable route except that proposed in the bill. The turns of he river necessarily carry the road into the northern border of the National Park, unning out of it again to reach its terminus in Southern Moutana.

The Park at present is 65 miles in length from its northern to its southern boundary, and will be over 75 miles if the bill to change its boundaries now pending in the Senate should become a law.

By the Government exploration under Professor Hayden, in 1878, the railroad following the course of the river would lie close along the northern boundary of the Park, reaching, by a sudden bend of the East Fork to the south, a point about 6, and not exceeding 7, miles below the northern boundary, and this for only a short distance. If, however, the county map of Gallatin County, said to have been made from an actual survey of the river in 1884, be correct, the river, so far as it would be followed by this railroad, lies outside of the Park for most of its distance; and the farthest point south which it would reach would not be more than 2 miles below the northern boundary and for a distance not exceeding 10 miles; but whichever map be correct, there is nothing of interest except these mines to attract tourists or travel of any kind to that part of the Park which this road would traverse. It would be merely a mining road for ores and bullion and mining supplies.

That these mines are of great value is beyond all question. A large number of mines are being already worked. Three smelters are in partial operation, but the expense of transportation is so great that they must be abandoned if greater facilities be not supplied.

The only access to this district is by a rude wagon road, which for more than half its distance is upon the natural surface of the ground, picking its way among rocks and stumps, and over marshes, and up and down the sides of steep ravines, where teaming is often dangerous, and so expensive as practically to preclude the working of the mines.

It has been represented to the committee that an experimental shipment of about 150 tons of ore from the Black Warrior and Elk Horn mines, at Cooke City, was made to Omaha, the nearest reduction works. The ores averaged $112.50. The cost of reduction was $16 per ton and the transportation was $92 per ton, giving to the miner $4.50 per ton to cover mining and other expenses. With railroad facilities, the total transportation would not have exceeded $45 per ton.

The committee deem it appropriate further to say that they favor the preservation of the Park for the purposes for which it was set apart, but they are unable to see how any such purposes can be interfered with by granting a right of way to a road which merely dips into the northern border of the Park for a short distance, in a part of it which contains no objects of interest, and where no other practicable route exists by which those mines can be reached.

The bill carefully guards the interests of the Park by prohibiting the taking of any material for construction outside of the limits of the right of way, which is limited to 100 feet each side of the center line, and there is no timber in that portion of the Park along the proposed route.

The following extracts from official and other sources are submitted as part of the evidence on which the conclusions of the committee are based:

Daniel C. Kingman, Engineer Corps, U. S. A., in charge of improvement of Yellowstone National Park, in his report for 1883 (Senate Ex. Doc. 47, part 3, page 10, Forty-eighth Congress, first session), recommends an appropriation of $20,000 "for the repair of the Clark's Fork road from Yancies via Soda Butte to the boundary of the Park, in the direction of the Clark's Fork mines," and says:

"This route is off the ordinary line of tourist travel. The mines, however, are said to be of unusual richness, and a large mining camp is growing up at Cooke City. The inhabitants of this region receive their mail from the terminus of the railroad at Cinnabar, Mont., over this road. In the same way all their supplies, tools, and machinery reach them, and the products of their mines must seek the market by this route.

"The present road is in a very bad condition, almost impassable at certain seasons, and there seems to be no way of improving it unless it is done by the National Government. Being in the Park, it does not belong to any county, and these people can hardly be expected to build it for themselves."

On the 29th of February, 1884, Hon. H. M. Teller, Secretary of the Interior, in reply to an inquiry from Hon. G. G. Vest, says:

"It [the Cinnabar and Clark's Fork Railroad] would therefore extend into the Park but a comparatively short distance along its northern border. The principal objects of interest to tourists are in portions of the Park remote from the route above mentioned, and the operation of a railroad over this route [the same now asked for] would not, therefore, detract from their beauty or grandeur, nor would it interfere with the

game of the Park to a greater extent than the wagon teams by means of which communication between the points named is now carried on.

"It is known that a flourishing mining camp has been established at Clark's Fork, and valuable and productive mines have been opened at that point.

"To refuse to afford those interested in the development of this mining region the benefits of the cheaper means of transportation a railroad would supply, merely because the road must enter the Park, and where its construction would not tend to subvert the purpose for which the Park was set aside, or interfere with the public enjoyment of its wonders, would be unreasonable.

"In view of the apparent commercial necessity for its construction, I do not know of any sufficient reason why the desired right of way should not be granted."

Mr. Henry Gannett, of the United States Geological Survey, who made the exploration of the northern portion of the Park under Professor Hayden from which the map of 1878 was compiled, in a letter dated February 19, 1884, submitted to the committee, says:

"The road proposed is the only one practicable to reach those mines. The ridges of the Shoshone and Yellowstone range trend in a general north and south direction, and any railroad attempting to reach these mines from the west must cross them nearly at right angles. These mountains are extremely rugged, and contain very few passes practicable even for pack animals. That at the head of the East Fork, which it is proposed to use for this railroad, is the only one available for this purpose.

"In my judgment a railroad on this route cannot injure the Park as a pleasure resort. It traverses a region in which there are no objects of interest, with the exception of the third cañon of the Yellowstone and of the Shoshone Mountains, which differ in no essential particular from similar scenery elsewhere."

General A. Anderson, chief engineer of the Northern Pacific Railroad, in a letter of May 10, 1884, says:

"Any route to the Clark's Fork mines, leaving the Northern Pacific Railroad, east of Livingston, must cross the main range of the Snow Mountains, which is very high, of very steep descent on north side, and cannot be surmounted at reasonable cost without the use of grades of probably 150 feet or more per mile. The Snow Mountains are noted for their heavy snow fall, which commences early in autumn and lies late in the spring. It is doubtful if a road could be operated except at an expense far beyond any possible return of cost. To conclude, a railroad to Clark's Fork mines across the Snow Mountains will be so costly of construction, and so difficult and expensive to operate, that it will never be built. The only feasible route is by way of the Yellowstone River. It would pass across a corner of the National Park but little visited by tourists, and wholly devoid, I believe, of those natural features calculated to attract them."

In a letter of January 28, 1886, in reply to further inquiry, General Anderson reiterates his statement that the route up the Yellowstone River is the only practicable route, and says:

"There is no other practicable route existing for a road to the Clark's Fork mines. Several others have been suggested, the principal ones being to build up the stream known as the Clark's Fork from near buildings, and the other to ascend the Boulder River. It is perhaps possible to build a railroad on one or the other of these lines, but from information derived from Army officers who have had occasion to pass through the country, I am confident no practicable route exists. Clark's Fork runs for many miles in a cañon through which, I believe, no one has ever been able to pass.

"The Clark's Fork mines are situated on the headwaters of a stream entering into the Yellowstone River in the National Park, and to reach them through or by the Clark's Fork would require the line to cross the main divide between Clark's Fork and the Yellowstone River, the elevation of which is probably about 9,000 feet above the level of the sea, and cannot be surmounted except at great cost, and by using excessive grades, exceeding 200 feet to the mile.

"The route by Boulder River is equally bad, if not worse. It would require crossing the Snow Mountains, one of the most rugged ranges in Montana, and covered with perpetual snow."

The richness and value of the Clark's Fork mining district have been known for many years.

Professor Hayden, in his report for 1872, says:

"About the sources of the Middle Fork and Clark's Fork are some very interesting silver mines, not yet developed to any extent, but the ore, which is galena, looks well; but the mines are so difficult of access, so far from market, and the seasons are so short, that their value is nominal at this time."

He adds:

"Still, the rapidity with which this western country develops under the stimulus of rich mines and railroads is so great that these far away ores may become valuable sooner than we could anticipate. A regular mining district has been formed here and numerous lodes staked out."

Subsequently, and several years after the Park had been established, the New World or Clark's Fork mining district was legally established, taking in 12 miles from east to west and 6 from north to south. The Government has received and continues to receive the price of all mining claims located therein. Good faith seems to require that the Government, which has established this mining district and invited purchasers, and received the proceeds of sale, should afford to such purchasers reasonable access to their property by railroad, which is the only practicable means, and by the route proposed in this bill, which the committee is satisfied is the only possible road by which these mines can be reached.

These views are confirmed by letters from several other engineers familiar with the country, all of whom concur in saying there is no other practicable route to reach the Clark's Fork mining district except by way of the Yellowstone River.

Many letters, memorials, reports of public meetings, &c., have been submitted to the committee, showing an intense interest of the people in Southern Montana, and most earnestly praying that the right of way through the Park be granted for this road.

All these papers, and others not cited, and the maps referred to, are in the hands of the committee, and accessible to all who desire to inspect them.

The committee believes the present bill carefully guards the Park against any abuse, fully protects the public, and requires the road to be built and running within three years, or the right of way granted shall be forfeited.

In the Forty-eighth Congress the Committee on Railroads, of which the distinguished Secretary of the Interior was a member, made a unanimous favorable report, substantially agreeing with the report of the said committees quoted herein.

The Committee on Pacific Railroads in the House of Representatives in the Forty-eighth Congress made a like favorable report unanimously.

Maj. George O. Eaton, a retired Army officer, in a letter under date September 7, 1885, to the House Committee on Expenditures for Indians and the Yellowstone Park, in speaking of the Boulder, Clark's Fork, and East Fork routes, says:

The writer has been over all these routes, and is familiar with them so far as the railroad aspect presents itself. The Boulder route may be disposed of by saying that it is, according to the general use of language, impossible. As to the route up the Clark's Fork from Billings, it is to be noted, in the first instance, that of all the advocates of this route there is, so far as is known, but one of them who has in person been over the route so strongly advocated, and that man is well known to be personally interested in preventing the railroad from going up the Yellowstone. This route (up the Clark's Fork) has been fully reported upon by General Anderson, chief engineer of the Northern Pacific Railroad, and it is therefore necessary for me to say but very little; but from Billings to Cooke, over any route that a railroad could follow, the distance would be at least 135 miles, and probably more. From Billings the first 40 miles would be of easy construction, but upon entering the mountains at that point difficulties would be enconntered that would have no parallel in this country, unless an exception be made in the case of the Denver and Rio Grande Railroad. This road can be built in the sense that it is not impossible, but it will take at least $4,500,000 to $5,500,000 to do it, which is a sum entirely beyond our ability to raise. Turning now to the route up the Yellowstone River to the East Fork of the same, thence up the East Fork and Soda Butte Creek to Cooke, we have the only route available in any moderate use of the word.

The distance from Cinnabar to Cooke over this route is not to exceed 60 miles, and has been estimated to cost, when built and equipped, something less than $1,000,000 It is not much to say that if we are ever to have a railroad into Cooke it must go over this route, because it is the only one that nature in the least favors, and it certainly must be a well-nigh evident fact that the easiest and most practicable way to reach any point must be to follow up the water-courses to which its streams are tributary. All that the miners of Cooke want is a railroad. It would suit them just as well to have it come from Billings, but they never can get such a costly road built. They therefore are obliged to come to Congress for assistance, praying that honorable body to remember at the same time that these mines were discovered and claimed before the National Park was established. As to whether a right of way be granted for a railroad, or part of the Park on the northern boundary be segregated, so that the line of the proposed road will be on the public domain, the miners make no choice. Either of the ways named will suit them, or any other that will permit the road to be built up the Yellowstone as proposed.

As to talk that is understood to have been made before your honorable committee

that there is no ore, nothing to justify a railroad being built to Cooke, it is simply idle talk made again by men who never have been there and who do not claim that they have. The writer alone has several thousand tons of merchantable ore lying on his dumps, and it all comes by simply running tunnels and sinking shafts. The ore on either side of these tunnels and shafts is not disturbed, nor a pound of it put on the dumps.

General Sherman, in his report for 1883 (Ex. Doc. No. 1, part 2, Forty-eighth Congress, first session) to the Secretary of War, says of the Park:

In superficial extent the Park is 60 by 55 miles, making an area of 3,300 square miles, much larger than the State of Delaware, and almost 3 times as great as Rhode Island. The Park reservation is evidently too great. Beyond the preservation of the natural curiosities there can be no good reason for any reservation whatever. These curiosities cover comparatively but little of the reservation, and to this the area should be razeed, throwing all outside open to settlement like other public lands. This would permit private enterprise to construct roads, make bridges, and do all other things necessary for the convenience and accommodation of a curious public. The lands of the Park, outside of what would be necessary for the preservation of the curiosities, is good for grazing and other purposes, and would be at once taken up, and soon good roads and other accommodations would follow, thus bringing these great wonders of nature within the reach of people of ordinary means. The Government has not and probably never will appropriate sums sufficient to provide for the wants of the public over so vast an area, and so long as it is a reservation private enterprise cannot enter it. The original idea in having it so large was to make of it a preserve for game. This has proved an entire failure. There is no game there now, and never will be so long as multitudes resort there for the purpose of sight-seeing. Wild game and multitudes are incompatible elements and cannot exist together.

Sixty-six citizens of Cinnabar, in their memorial to Congress praying for the passage of this bill, say:

The said route must, of necessity, follow said river in its course through the Yellowstone National Park. There are no objects of interest along that portion of the river which such railroad would traverse, and a railroad constructed on such route would be available only for business purposes, and would not interfere with any plan of the Government to maintain the Park for all the purposes for which it has been set apart. The development of the Clark's Fork mining district is of national importance, and cannot be accomplished without railroad facilities, and without the right of way herein prayed for. No railroad to said mining district can be built, nor can the northern portion of Wyoming Territory east of said Park be developed.

A committee appointed by a mass meeting of the citizens of Bozeman, Livingston, Cinnabar, and Cooke City addressed a memorial on this matter to Hon. J. K. Toole, Delegate from Montana, in vigorous and business-like terms. Among other reasons for this road they say:

Thus, after years of legal occupation of and work and expenditure in the district, we yet at the end of another season find ourselves unable to utilize the same, though the district is without doubt one of the richest in America, and one of the most extensive (20 square miles) in the world.

We recognize the objections existing against the cutting down of reservations, or of permitting construction of railways over them; but we ask no cutting down with any speculative object in view, nor do we ask any right of way except in the legitimate interest of the citizens of Montana as connected with said mines. It is capable of complete demonstration that the part of the Park through which the road should pass is utterly valueless to the Park; it is a portion thereof which will never be sought by tourists; it is almost wholly destitute of timber; access by wagon road across it to said mines, it must be evident, from the nature of things, must result in far more injury to timber-growth by fires and consumption than from a railway; destruction of game occupies a like position; not a tie can be cut upon it for railway construction; saw-mills need not injure the streams (those already in the district have not done so); smelting and milling operations cannot affect them; and in no way can the building or operating of a railway result in injury to the Park, or to public or private interests.

The right to be in location within said district has been and is, as already stated, recognized by the Government; that right was legally initiated prior to the establishment of the Park, and certainly the right to a means of exit for the production of *said district* is as sacred and as inalienable. The right to go in and out with sup-

es and production by wagon road is also recognized; and as a railway would ›ve the only practical means for transportation, and a less dangerous and objecnable means, as stated, it cannot be seen why objection should exist.

For all possible routes there are but three. One, by way of the Boulder, is from) to 120 miles of length, but it is impracticable, and so difficult that its expense ›uld deter the most venturesome, and it is not known who would think even of esti-›ting upon it.

That from Billings, Mont., is not, it may be, impossible, but its length is from 135 to › miles over a terrible country; its construction would cost, it must be, four to five llions of dollars, and we refer with confidence to the report of General Anderson, as ief engineer of the Northern Pacific Railroad, upon the subject. Who would build is road is not known. It occupies a like position with the Boulder route first men-›ned, and, with it, is out of the question.

Lastly, the Yellowstone route, that suggested herein, is the only practicable, avail-le one. From the end of the mentioned Park branch of the Northern Pacific Rail-ad is but (from Cinnabar, its present terminus) 51 miles. The road would run thence › the Yellowstone River to its East Fork and up the latter and Soda Butte Creek to ›oke City, located within said district, now public land.

Attention is asked for the suggestive and important fact that during the entire ›riod of occupation of this district, notwithstanding persistent effort otherwise, the ›ly wagon route established is that by way of the very course laid down herein as ›e "Yellowstone route." Experiments otherwise have proven failures. From the ›int of practical entrance into the district of the Billings route, it would be almost, not absolutely, impossible to reach the main mining ground, and we especially court vestigation of the statements herein made upon this point of route.

In all this matter we assert that we seek but a way in and out. No plan by which secure land or coal, or timber, or anything else, from the Park, is concealed in this atter. We are not seeking the cutting down of the Park; we are not making any ›id against or upon that reservation; we but ask and desire the right to construct ›d operate a railroad from Cinnabar to the Clark's Fork mines, that we may utilize e labor and investment of years. We see our way to the construction of the desired ›ilroad, and await the requisite Government consent.

Your committee have had before them a petition from four hundred tizens of Montana, another from eighty citizens, another from forty citi-›ns, together with letters and affidavits from more than thirty citizens ›quainted with the country, several of them engineers, all testifying › the fact that the route proposed in this bill is the one desired and ›pected, and the only route practicable to Cooke City for railroad.

In consideration of the abundant and strong testimony in favor of ›is bill, your committee agree with the other committees reporting ›is measure in the conclusion that this bill, as amended, should pass, nd so recommend.

VIEWS OF THE MINORITY.

Mr. MANDERSON, from the Committee on Territories, submitted the following views of the minority, to accompany S. 980:

The undersigned beg leave to dissent from the views of the majority of the Committee on Territories, in reference to S. 980, granting the right of way to the Cinnabar and Clark's Fork Railroad Company.

This bill, as originally introduced by the Senator from Minnesota, Mr. McMillan, and referred to the Committee on Railroads, provided for the granting of a right of way to the Cinnabar and Clark's Fork Railroad Company, a corporation organized under the laws of the Territory of Montana, from Cinnabar, by way of the Yellowstone River and the East Fork thereof and Soda Butte Creek, to the Clark's Fork mining district. The said right of way was to be 100 feet on each side of the center line of said railroad, except at such points, not nearer than 7 miles from each other, as may be designated by said railroad company for station buildings, depots, machine-shops, side tracks, turn-outs, and water stations, at which points the right of way shall be 200 feet in width on each side of the center line of said railroad, and 2,000 feet in length. The original bill also provided that timber and other materials found upon such right of way might be used by such company. The Committee on Railroads, to whom the bill just described was referred reported the same back with material amendments, which will appear by a reference to their report, No. 204. By reference to said report, the following language will be found:

> It appears that the portion of the Park through which the railroad would pass contains no objects of public interest to attract the attention of tourists, and that the preservation of the timber and game of the Park is more hindered and the game more extensively depredated upon by the present and increasing travel upon the wagon-road than it would be under the operation of the proposed railroad. For most of the distance it would be confined to narrow ravines along the water-courses, not frequented by either game or travel; and when not in such ravines, it would follow the general route of the present wagon-road.
>
> The Park extends about 65 miles from north to south and 55 miles from east to west. Its boundaries have not been surveyed. Two maps have been submitted. If the map of the Geological Survey be accurate, the railroad would run at an average distance of about 3 miles south of the northern boundary of the Park, reaching at one point, by a sudden turn of the East Fork, an extreme point of about 6 miles south of that boundary, and for a very short distance. The total length within the Park would be about 25 miles.
>
> If the map of Gallatin County, Montana, said to have been made from actual survey, be correct, the railroad would at no point penetrate the Park more than about 3 miles, and at an average distance of not exceeding 1½ miles, and for a distance of about 10 miles.

We suggest that these views are based upon a misapprehension of the facts. Instead of the distance through Yellowstone Park traversed by this projected railroad being from 10 to 25 miles, it will be seen, by reference to the letters hereto attached, from those having full knowledge of the facts, that the distance traversed is from 40 to 60 miles, and that

the probabilities are that the length of the projected railroad will be about 56 miles.

The undersigned, believing that the construction of this road would be decidedly injurious to the purposes for which the Park was established, and that there are other routes over which a railroad can be constructed from points on the Northern Pacific road to the Clark's Fork mining district, report adversely to the bill, and urge that it be indefinitely postponed; and in support of this view calls careful attention to letters from the Hon. L. Q. C. Lamar, Secretary of the Interior, Lieutenant-General Sheridan, Maj. J. W. Powell, Director of the Geological Survey, W. H. Phillips, esq., special agent for investigating Yellowstone Park, of the Interior Department, Prof. Arnold Hague, of the Geological Survey, Lieut. Dan. C. Kingman, Corps of Engineers, United States Army, and others having knowledge of the facts. A careful reading of these letters from gentlemen who have personal knowledge of the facts will, we believe, quite conclusively show that it is extremely undesirable that a railroad, as projected, should be permitted to be built.

We first attach the letter of the Secretary of the Interior, and the accompanying documents, all of extreme value in the consideration of this bill:

DEPARTMENT OF THE INTERIOR,
Washington, April 22, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of the 3d instant, inclosing Senate bill 980, and report No. 204, in relation to "granting the right of way to the Cinnabar and Clark's Fork Railroad Company" through Yellowstone Park reservation, with request that this Department will furnish for the use of the Committee on Territories all of the data and information in its possession. The delay in responding is explained by the inclosed documents, which were obtained mainly through correspondence incident to your inquiry.

The Park, as you are aware, was established by act of Congress, March 1, 1872, and in the language of that enactment (sec. 2474, R. S.) "dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people; and all persons who locate or settle upon, or occupy any part of the land thus set apart as a public Park, except as provided in the following section, shall be considered trespassers and removed therefrom.

"SEC. 2475. Such public park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonders, within the Park and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding ten years of small parcels of ground at such places in the Park as may require the erection of buildings for the accommodation of visitors; * * * he shall provide against the wanton destruction of the fish and game found within the Park; * * * he shall cause all trespassers upon the same to be removed therefrom, and generally is authorized to take all such measures as may be necessary or proper to fully carry out the objects and purposes of this section."

In the second session of the Forty-seventh Congress (see p. 626, vol. 22, Statutes at Large) the following legislation looking to the preservation of the Park in its "natural state" was had:

* * * "Two thousand dollars to be paid annually to a superintendent of said Park, and not exceeding $900 annually to each of ten assistants, all of whom shall be appointed by the Secretary of the Interior, and reside continuously in the Park, and whose duty it shall be to protect the game, timber, and objects of interest therein; the balance of the sum appropriated [$40,000 was the total amount] to be expended in the construction and improvement of suitable roads and bridges within said Park, under the supervision and direction of an engineer officer detailed by the Secretary of War for that purpose.

"The Secretary of the Interior shall lease small portions of ground in the Park, not exceeding ten acres in extent for each tract, on which may be erected hotels and necessary outbuildings, and for a period not exceeding ten years; but such lease shall not include any of the geysers or other objects of curiosity or interest in said Park, or exclude the public from the *free and convenient approach thereto;* or in-

clude any ground within a quarter of a mile of any of the geysers or the Yellowstone Falls, nor shall there be leased more than ten acres to any one person or corporation; nor shall any hotel or other building be erected within the Park until such lease shall be executed by the Secretary of the Interior, and all contracts, agreements, or exclusive privileges heretofore made or given in regard to said Park or any part thereof are hereby declared to be invalid; nor shall the Secretary of the Interior, in any lease which he may make and execute, grant any exclusive privileges within said Park, except upon the ground leased.

"The Secretary of War, upon the request of the Secretary of the Interior, is hereby authorized and directed to make the necessary detail of troops to prevent trespassers or intruders from entering the Park for the purpose of destroying the game or objects of curiosity therein, or for any other purpose prohibited by law, and to remove such persons from the Park if found therein."

A similar appropriation was made by the Forty-eighth Congress, second session (see Statutes at Large, vol. 23, p. 499): "For every purpose and object necessary for the *protection, preservation and improvement* of the Yellowstone National Park."

I quote the statutes in this connection to show the spirit of the legislation had in regard to the Park, and that the dominant idea in Congress in reference to the matter has been the preservation of the wilderness of forests, geysers, mountains, &c., so to speak, and the game common to that region, in as nearly the condition in which we found them as possible, with a view to holding for the benefit of those who shall come after us something of the original "Wild West" that shall stand while the rest of the world moves, affording to the student of nature and the pleasure tourist a restful contrast to the busy and progressive scenes that the story of the past of American enterprise gives assurance will ere long be repeated in the growth in population and civilizing influences of the Territories of Idaho, Wyoming, and Montana, that now border on the Park, and that even now are aspiring to the dignity of Statehood.

The data of surveys in this Park and the region immediately north of it is too meager to enable this Department to answer with any degree of positiveness your inquiry as to whether there is any other practicable route for the proposed road except the one comprehended in the provisions of the bill in question, but I would respectfully suggest in this connection that the line proposed by the "Cinnabar and Clark's Fork Railroad Company," is a creature of the draughtsman rather than of the engineer, and is not, so far as I can ascertain, a deduction from instrumental survey, supported by notes of topography and levels, and estimates of excavation, fill, and grade.

Several other routes are suggested by military and scientific authorities of high repute, whose letters and reports upon the subject I send you, as practicable and feasible, and though these lines have not been subjected to the test of instrumental scrutiny, they are at least as familiar to engineers, geologists, and border hunters as the one seeking recognition in Senate bill 980, and while longer and perhaps more expensive in the demands of construction, I do not think that that question should have consideration in view of the aims and objects of Congress in the legislation of 1872 and subsequent years, and the hopes engendered in the hearts of the lovers of science and nature by that legislation, that at least "one brand should be saved from the burning" of a restless civilization, before whose relentless advance the forests, plains, and even the mountains in their wild aspect, are disappearing, particularly when for the purposes of this legacy to prosperity a reservation was made of rugged rocks, bitter waters, inaccessible forests, boiling fountains, arid plains, and on the whole, a region that, but for its selection by the Government for the people of to-day and the future, would have been rejected by all men and corporations animated by thirst for gain or the selfish frenzy of speculation.

The Lieutenant-General commanding the Army, in a communication that I inclose, says:

"The railroad from Cinnabar to Cooke City, following the route proposed, will traverse about 45 miles of the Park and be at the road's most southern point, the junction of Soda Butte Creek with the East Fork, about 12 miles south of the north line of the Park. Except near the Mammoth Hot Springs, the road will not pass in the immediate vicinity of any of the objects of public interest, but it would pass through some of the best grazing and meadow lands in its northwestern corner."

The general, in the above frank recital, gives some good reasons for the company's anxiety to secure a line through the Park, and excellent reasons in my opinion for rejecting the application. The fact of the line penetrating twelve miles south of the northern border, its passing in the vicinity of the Mammoth Hot Springs, and its virtual capture of some of the best grazing and meadow lands are all strong arguments against the granting of its application if the theory that suggested the reservation still holds good, and comprehends the maintenance of its original and present characteristics.

The conclusion of General Sheridan's letter shows that he also holds this opinion, for he says:

"A railroad through any portion of the Park is, however, not in harmony with the

objects for which this reservation was created, and if permitted in this case, will, I much fear, be used as a precedent by the advocates of the various other roads already projected through different sections.

"Under the present circumstances the objects of the Park are being well fulfilled. The game is collecting in large numbers, and if not disturbed, will probably continue to do so in the future. These conditions should then, as far as possible, be maintained.

"With reference to other lines of communication, that by Boulder Creek may prove possible. This route was traversed by an officer of the Army in 1878, who then reported that he deemed a railroad by this route practicable."

Lieut. Daniel C. Kingman, first lieutenant of Engineers, United States Army, in charge of preparing roadways, bridges, and Government improvements generally at Yellowstone National Park, in a letter under date of March 25, replying to a communication from the editor of "Forest and Stream," expresses surprise that his report of 1883 "should be quoted as in any way favoring the construction of railroads for any purpose whatever within the Yellowstone Park."

"I have," he says, "always been opposed to the construction of railroads in the Park. I have given this subject the most careful thought and study, and I should regard their introduction as the most serious injury that could be inflicted on the Park, and the construction of the Cinnabar and Clark's Fork Railroad would be especially deplorable, because it seems so unnecessary.

"There is every reason to believe that the route of the Stillwater (lying wholly outside of the Park) is a better one for a railroad to the mines than that via the Yellowstone River and Soda Butte Creek."

Mr. Arnold Hague, geologist of the United States Geological Survey, in charge of the National Park Division, responding to a letter from this office covering the inquiries submitted by your committee, under date of April 6, says:

"The Clark's Fork mining district lies just outside the northeast corner of the Park, high up in the mountains, near the headwaters of the Stillwater and Clark's Fork Rivers and Soda Butte Creek.

"The district, as yet, is small and undeveloped. It may have a brilliant future before it, but it has not been satisfactorily demonstrated. Every mining engineer knows that the number of mining locations held has very little to do with the importance of a district. I first visited it in the autumn of 1883; I again visited it in September, 1885, and found that the mining developments had progressed far less than I had been led to suppose. So far as I was able to judge upon careful inquiry, I think there were not more than a hundred miners actively employed in the district, and most of these were doing what is known as prospecting work. In no one mine were more than three or four men at work. Considerable ore had been taken out, but mostly of a very low grade, that will have to be smelted in the district. From present developments I fail to see how this district could support a railway.

"No careful surveys for railway routes have as yet been made, although much misinformation has been scattered broadcast about the impracticability of reaching the district in any other way than through the Park.

"Three routes, however, have been proposed: One by way of Stillwater River, from Stillwater, on the Northern Pacific Railroad; one from Billings, Mont., by way of Clark's Fork; and one by Soda Butte and the Third Cañon of the Yellowstone River, passing through the Yellowstone Park for about 50 miles, nearly the entire length of the road.

"It has been stated that the mines are all on Soda Butte Creek, and to reach them a railway from north or east would have to cross a high mountain range. This I consider an error. Although Cooke City is situated on Soda Butte Creek, it is only a small settlement, and inconveniently located for nearly all the recent mining developments of the district. All the more important recent developments are situated either on the opposite side of the watershed, on streams tributary to the Stillwater and Clark's Fork, or else within a few hundred feet of the summit of the range.

"With a railway, a mining town would be equally as well situated on either the Stillwater or Clark's Fork.

"From all I can learn, I am inclined to believe that the route following the valley of the Stillwater will prove practicable. I have not examined it personally, but more accurate surveys have been made of it than of the other lines. I am told it is feasible to build the road to within 15 miles of Cooke City. All the newest mining locations are from 3 to 6 miles from Cooke City, high up in the mountains. This road would be about 54 miles in length. Stillwater, the junction of the branch with the Union Pacific Railroad, is about 125 miles nearer Saint Paul than Cinnabar.

"I have personally examined the Clark's Fork Valley, for 40 miles east of Cooke City, and I am of the opinion that if the mining interests demand a railway, a road could be built from the mines to Billings, Mont., which would be far more serviceable than a road through the Park. There is on this route one very rugged place

known as Clark's Fork Cañon—a deep gorge 6 miles in length—but I am told it is quite possible to avoid it.

"This route seems so feasible that accurate surveys should be made before granting a right of way through the Park. I am well acquainted with the country through which the railroad would have to pass going from Cooke City to Cinnabar. My own work compelled me to study the third cañon carefully, and I have no hesitation in saying it would be a very costly matter to build the road for 18 or 20 miles from Gardiner to the East Fork of the Yellowstone River.

"It has been estimated by the friends of the Cinnabar and Cooke City Railroad that it can be built for $1,000,000. It seems to me that if the output of the mines at Clark's Fork can stand such an expense, either of the other routes should be chosen.

"In my opinion, many persons are interested in obtaining this right of way through the Park who desire to use the road for the purpose of transporting passengers who visit the Park in the summer. Having the only right of way granted by Congress, they anticipate receiving large revenues from tourists. Upon its completion we should see glowing inducements held out to tourists of a ride through the third cañon of the Yellowstone and the charming valley of the East Fork.

"The granting of one or two hundred feet on each side of the track would necessarily include Soda Butte Spring, the water of which is already much sought after by many people, and the only one in the Park which has yet been found to possess curative properties.

"In my opinion, it would be a mistake to allow this spring to pass beyond Government control.

"I cannot but believe the establishment of a railway in the Park would prove a permanent injury to the reservation and tend to subvert the purposes for which the Park was originally set apart.

"The danger from forest fires would be very great and the large game would disappear, as it has everywhere else, with the appearance of railways.

"With a railway in the Park, 50 miles in length, with stations every 7 miles, disagreements difficult of settlement would immediately rise between a powerful railway corporation and the management of the Park.

"A railway means the settlement of large numbers of persons in the Park, over whom the Department of the Interior could have but little control. It would require constables, justices, and courts, and finally the people would ask for political privileges.

"It should be the aim of the Department to permit as few people as possible to reside permanently in the Park, other than those engaged in the accommodation of visitors. A railway in the Park is, in my opinion, the beginning of the end. The demands of others, claiming equal rights, would grow with years, and, in time, the Park would have to be thrown open to settlement.

"By preserving the Park intact for the next ten years, it will take such a firm hold upon the country that the people will never consent to its desecration to purely personal ends.

"It belongs to Maine and Florida quite as much as to Wyoming and Montana, but in time these Territories will derive the greatest benefits."

Mr. W. H. Phillips, late special agent of this Department in the Yellowstone National Park, in his report (Senate Ex. Doc. 51, Forty-ninth Congress) says:

"Interested parties have for some years brought to bear a constant pressure upon Congress and the Department to induce action in favor of a railroad through the Park. This railroad is sought ostensibly for the purpose of bringing to market the ore from Cooke City, a mining camp adjacent to the northeast boundary line of the Park.

"Apart from the consideration that a railroad is not needed in the Park, and that it would deface its beauty, is the further consideration that the preservation of the game and the forests would be unattainable should a railroad be allowed within the limits of the Park."

Writing to the Department, under date of April 6, 1886, Mr. Phillips says, referring to the project suggested by Senate bill 980:

"The road would run through one of the wildest portions of the reservation, within which the herd of buffalo, sole remnant of the once mighty herds, now roams.

"Nor need I dilate upon the damage of the forests which would result should the bill become a law. Owing to the dryness of the climate during most of the year, forest fires are very easily caused, and once started do immense injury. A railroad would be the means of greatly increasing the danger to the forests from fires."

In the report of the House Committee on Expenditures for Indians and the Yellowstone Park to the present Congress it is said:

"The preservation of the forests which clothe with verdure the valleys, rugged declivities, and mountain peaks of the whole region is of special moment. It is made very clear by the practical and scientific views presented on this subject in the testimony that the regular flow of water in these regions is greatly dependent on these

forests. It is, therefore, in the judgment of the committee, of the highest moment that these forests should be protected from destruction either by fire or the ax. To this extent, having in view at once the beauty of the park as a delightful resort of the people, and the value of the great streams of water that issue from the mountains, as well as the benign influence of the forests on climate and health, this Park should receive the special care of the Government."

In the communication from Mr. Phillips of April 6 he refers as follows to the influence of a railroad in centering population in the Park:

"* * * If a railroad is allowed, the difficulties which the Department already labored under as to the management of the Park will be greatly increased. It will be impossible to avoid more or less settlement along the line and the introduction of a large number of people connected with the road. New rules and regulations will have to be made, and when made, with the present force under the superintendent, their enforcement will be very difficult, if not impossible.

"The objects contemplated by Congress have in a great measure been attained. Not only from all portions of this country, but from all portions of the world, the people have come to behold the wonders of nature contained in the Park and to seek escape from the trammels of civilized life surrounding them at home. The main wonder and joy to them has been to behold everything that was beautiful in the Park in a state of nature; that the fair picture contained no blot of man's hand.

"By the bill under consideration all this is proposed to be changed. For the benefit of a private corporation, the pleasure ground of the whole people is to be invaded, the face of nature is to be scarred with a railroad, and one of the fairest portions of the Park surrendered to a corporation for that purpose, upon which may be erected, in the language of the bill, 'station-houses, depots, and machine-shops.'

"This railroad will run fifty-six miles through the Park, penetrating the wonderful cañons, cutting through the forests, and over the finest grass country in the Park, and pursuing its course along the beautiful Yellowstone River.

"That a railroad would be destructive of the beauty of the Park will be conceded by all. No less clear is it that the project is opposed to the main purpose for which the Park was set apart. Already a railroad reaches the very gates of the Park, and since it has reached that point, they would have it penetrate within the 'sacred precincts.'"

Under date of April 10, 1886, Maj. J. W. Powell, Director of the United States Geological Survey, forwarded a communication to this Department, which I inclose herewith, replying to some of the inquiries suggested by your letter of the 3d instant. He also sends a map of a portion of the Yellowstone Park covering the location proposed in Senate bill 980, which I transmit for the information of the committee. The map "embraces an area extending across the Park from east to west, from the northern boundary southward about 20 miles."

Major Powell discusses the various routes that have been suggested for a railroad to the Clark's Fork mining district, as follows:

THE YELLOWSTONE ROUTE.

"It starts at Gardiner, on the northern boundary of the Park. The present terminus of the Park branch of the Union Pacific Railroad is Cinnabar, about 3 miles from Gardiner. From Gardiner the line follows up the Yellowstone to the mouth of its East Fork, thence up this creek to where it passes into a district east of the Park, in the neighborhood of the Clark's Fork mining district. The route thus traced through the Park is about 46 miles. The extreme southerly point of the route, near the mouth of Soda Butte Creek, is a little more than 11 miles from the northern line of the Park. The altitude of Gardiner is about 5,400 feet above the level of the sea; the altitude of a practicable site for the terminus of the road in the mining district would be about 7,500 feet; therefore, the altitude to be gained in running from Gardiner to the terminus of the road would be about 2,100 feet, and the length of the line would be from 50 to 55 miles. For fifteen miles of its course the construction would be somewhat difficult and expensive from the fact that the road must run through a narrow and broken cañon. The remainder of the road would be of easy construction."

THE STILLWATER ROUTE.

"There is a possible route from Stillwater, a station on the Union Pacific Railroad, up Stillwater River to its headwaters in the Clark's Fork mining district, but the terminus would not be the same as by the Yellowstone line, but on the other side of the 'divide.' This line would pass up a narrow valley, through a number of broken and difficult cañons. The length of the route would be from 65 to 70 miles. The altitude to be overcome in this distance would be about 3,930 feet."

THE CLARK'S FORK ROUTE.

"There is still another possible route by which this mining district may be reached, that extending from Billings up Clark's Fork, which stream heads in the mining district and gives it its name. The length would be from 125 to 130 miles. Along the route there are a number of cañons presenting obstacles to the road. One cañon, especially, is said to present great difficulties, and it may be necessary to run the line outside of the cañon along the mountain slopes in order to overcome this difficulty. The altitude to be overcome by this route is about 4,385 feet.

"There are some considerations in favor of this route, from the fact that its terminus is farther east on the Northern Pacific Railroad, and from the further fact that along its course valuable *deposits of coal* are found."

Commenting upon the various routes, and reasoning from the meager engineering data at hand, Major Powell says:

"Altogether the Yellowstone Park route is shorter: can be constructed more cheaply per mile; has less elevation to overcome, and could be maintained and operated at much less expense than either of the other routes."

These conclusions would have force and weight if addressed by a chief engineer, employed on preliminary survey, to the board of directors of a company contemplating an economical investment in railroad construction between given points, but they are not entitled to consideration in this connection, where but two questions, it seems to me, present themselves: First, the protection of the people's heritage, the Park, from an intrusion that threatens its destruction; and, second, the furtherance of the interests of speculators, individual and corporate; and if I understand the object of the inquiry submitted by your honorable committee to this Department, it is to ascertain the possibility of meeting the wishes of the railroad projectors who have in view certain mining possibilities, or probabilities, without trenching upon the precincts of the Park, heretofore so carefully hedged and guarded by Congress and this Department. In this connection it seems to me we have no right to consider the questions of distance, grade, or cost, particularly as instanced here, where all are within rational and feasible bounds. Such surveys and data as we have—and the information is as meager in regard to one route as another—demonstrate the practicability of connecting the Clark's Fork mining district with the Northern Pacific Railroad without traversing by rail any portion of the Park; and, this being the case, it is not for the Department to make estimates of relative cost or consider the matter of relative speed as dependent upon ease of grades, in an instance where speed is not a consideration, and the grades are not excessive as compared with those of many mining and commercial lines in mountain countries, being about 56 feet to the mile on the "Stillwater Route," and about 33 feet on the "Clark's Fork Route," while it would average about 38 feet to the mile on the "Yellowstone Park Route." It must be observed, also, that the distance for the Park route is estimated as nearly as possible upon air line assumptions, while in respect of the others, wide latitude is taken to cover deficits in information and exploration. Further, if we consider the fact that the Park route extends for all its length, except about 15 miles, through a country where "the road would be of easy construction," and yet obtains in an estimated 55 miles an altitude of 2,100 feet, the inference of enormous grades to be accepted, somewhere, suggests itself.

In answer to your inquiry, transmitted through this office as to the importance of the mining district in question, Major Powell says:

"No thorough information exists in this office relating to the importance of the mining region at Cooke City. It is known that mineral lodes have been discovered in this district of country and have been worked to some extent. None of the workings have been extended to great depths, but many small workings have been made, and it is believed that much ore is now piled upon the ground. But the exploitation of the region seems not yet to be sufficient to warrant expression of opinion in relation to the ultimate extent of the mining industries that may be developed therein.

"The early discoveries were on the head of Soda Butte Creek; later discoveries are on the head of Stillwater and the head of Clark's Fork. The most important mine is the Great Republic, which now has much low-grade ore on the dump-pile. Cooke City is a small settlement at the center of the mining district. If a railroad be built by any one of the routes its terminus will probably be lower down, and a new town will thus probably be established.

"Gardiner is situated on the Yellowstone River, about 5 miles from the Mammoth Hot Springs, on the north line of the National Park. It is a small settlement of log cabins and frame shanties. It derives its trade at present from the settlers living in the valley and from people visiting the Park.

"Cinnabar, the present terminus of the Park branch of the Union Pacific Railroad, is about three miles away.

"With regard to the effect such a railroad would have upon the interests of the Park, the Director does not feel that he is entitled to express an opinion."

It will be seen that the importance of the mining interests in this district are far from being demonstrated by any data in the possession of either the military or scientific authorities of the Government, and that doubt is expressed by both as to the ultimate importance of Cooke City as a mining town in the event of the most favorable outcome of the pending "prospectings"; but admitting its importance and future greatness, is it not possible that the researches of the near future may disclose like deposits of mineral wealth in the Territory of Idaho immediately bordering on the west line of the Park, and in Wyoming Territory near its south and east lines, and will not the demands that now come up to Congress in behalf of the "Clark's Fork mining district," in Senate bill 980, if favorably considered, be annually echoed from other mineral districts with equal claim to recognition, until the Park shall be, if equal justice be done to all petitioners, webbed with the arteries of intercourse and commerce, and cease to exist as the creature of the legislation of 1872, that "dedicated and set apart as a public park and pleasure ground, for the benefit and enjoyment of the people," this rugged, romantic, beautiful wilderness and wonderland?

In connection with other documents forwarded herewith, I send you a number of extracts from a representative-journal of the American lovers of field sports and students of forestry, the Forest and Stream, to show the deep interest that is being taken in the question under discussion by an immense class of our most thoughtful and intelligent fellow-citizens, and the anxiety and suspicion with which they regard the overtures and representations of the corporations now besieging Congress for authority to penetrate the Park with railroads.

In the event, however, that the judgment of your committee shall so far incline to the repeal or amendment of the legislation of 1872 and subsequent Congresses as to favor the granting of the right of way proposed in Senate bill 980, I would respectfully suggest that the grant be restricted to such limits as are absolutely essential to road-bed and slopes of "cuts" and bases of "fills," the measurements of which will be amply demonstrated when the "line of definite location" shall have been run, and the office estimates based thereon shall have been made—if such estimates are submitted with the "plats of actual surveys" to this office for approval—in lieu of the maximum width of 200 feet—"100 feet on each side of the center line of said railroad"—asked in the bill.

The probability is that most of the work contemplated will be rock grading, and in such event the cuts will be at a slope so light in the interest of economy as to deflect little from the perpendicular, and, in rare instances, will require for road-bed and slopes a right of way of more than 25 or 30 feet from center; while in the matter of "fills," trestle-work and iron structures will be largely used, never requiring a greater breadth of base than 50 feet.

This amendment is suggested rather in the interest of timber preservation than economy of land, and with a view to guarding against that appearance of utter desolation usually incident to a forest right of way from which the timber has been cut or culled for a distance of a hundred feet on either side.

If the grant is to be made upon the simple ground of affording an outlet for the products of the mines of the Clark's Fork district, there is no apparent necessity for stations at intervals more frequent than ten miles, and I would respectfully suggest amendment in this particular, and that the grant of land at stations be limited to sites for depot buildings, wood or coal sheds, and water tanks; and that the limitation for side tracks or switches shall not exceed a limit in width of 60 feet, to cover all trackways, and a length of 500 feet, in lieu of the maximum asked in the bill of 2,000 feet by 400 feet, or about 18 acres of the reservation in each instance; and that the structures erected by said railroad company within the Park shall not in any instance include machine-shops, repair-shops, supply stations, hotels, restaurants, eating-houses, stores, or any building except a depot, including telegraph or telephone office, residence for station agent, and one building for residence of section hands; and said right of way and locations for depot grounds shall not, in any instance, include objects designated as natural curiosities or matters of interest to tourists, or be surrounded or inclosed by fences, walls or hedges, that shall obstruct the view of any contiguous objects, or bar the passage to them of pedestrians or vehicles.

If the purpose of the projectors of this enterprise is fully disclosed in bill 980, their object is not in any degree thwarted by acceptance of amendments suggested in the interest of the people and in furtherance of the views expressed so forcibly in the legislation creating the Park. But the property grants asked for naturally excite distrust, as being those usually sought and accorded in the interest of local trade, progressive enterprise, and the aggregating of population—three conditions that antagonize the letter and spirit of the law establishing the reservation.

If "right of way" is to be granted, I respectfully suggest that it should be "right of way," plain and simple, and so circumscribed as to guard against peopling the Park in the interest of personal or corporate gain or speculation; otherwise it will result at an early day in establishing a condition of affairs that may necessitate abandonment of the original theory of a National Park, or such a contraction of territorial

limits as will surrender to the "Cinnabar and Clark's Fork Railroad Company," and the other corporations in whose interest their bill practically blazes the way, all the lands and settlements in the reservation contiguous to their several lines.

The demand for grants at depots and sidings, of tracts 2,000 by 400 feet in extent, representing areas of 800,000 square feet, or more than 18 acres, in each instance, would, if conceded, enable the company to absorb and control every "oasis" of meadow land through which their line can be twisted or diverted; or, cutting these tracts in center, or diagonally, practically possess a vastly larger number of acres than the grants comprehend, by rendering the other portions of the valleys useless because inaccessible to others. In fact, it is questionable whether any of the valleys of the Park will be more than equal to the demand of a general right of way, 200 feet in width, and a right of way of switches of 400 feet in width. The grant sought would include, and may be intended to include and absorb, the best meadow and grazing lands in the Park referred to by General Sheridan, Geologist Hague, and Special Agent Phillips, in the letters that accompany this report.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

HON. CHARLES F. MANDERSON,
United States Senate.

HEADQUARTERS ARMY OF THE UNITED STATES,
Washington, D. C., April 7, 1886.

SIR: In reply to your letter of the 9th instant, requesting my views on Senate bill 980, I have to state that I have been at Cooke City on three different occasions. At my last visit, in 1882, the town may have contained about twenty-five people; the mines did not then appear to be very extensive. The railroad from Cinnabar to Cooke City, following the route proposed, will traverse about 45 miles of the Park and be at its (the railroad's) most southern point, the junction of Soda Butte Creek with the East Fork, about 12 miles south of the Park's northern boundary line. Except near the Mammoth Hot Springs, the road will not pass in the immediate vicinity of any of the objects of public interest, but it would pass through some of the best grazing and meadow lands in its northeastern corner.

A railroad through any portion of the Park is, however, not in harmony with the objects for which this reservation was created, and if permitted in this case would, I much fear, be used as a precedent by the advocates of the various other roads already projected through different sections. Under the present circumstances the objects of the Park are being well fulfilled. The game is collecting in large numbers, and if not disturbed will probably continue to do so in the future. These conditions should then, as far as possible, be maintained.

With reference to other lines of railroad communication with Cooke City, that by way of Boulder Creek may prove possible. This route was traversed from the Yellowstone to the Clark's Fork mines by an officer of the Army in 1878, who then reported that he deemed a railroad by this route to be practicable.

Very respectfully, your obedient servant,

P. H. SHERIDAN,
Lieutenant-General.

HON. H. L. MULDROW,
Acting Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, April 6, 1886.

SIR: In reply to your request for information as to the necessity of granting to the Cinnabar and Clark's Fork Railroad the right of way to build a road through the Yellowstone Park, and the effect such a road would have upon the reservation, I take pleasure in laying before you such information as I have gathered, and at the same time presenting my objections to any railway in the Park.

The Clark's Fork mining district lies just outside the northeast corner of the Park. It is situated high up in the mountains, near the headwaters of the Stillwater and Clark's Fork Rivers and Soda Butte Creek. The district as yet is small and undeveloped. It may have a brilliant future before it, but however this may be, it has not been satisfactorily demonstrated. Every mining engineer knows that the number of mining locations held has very little to do with the importance of a district. I first visited the district in the autumn of 1883. I again visited the place in September

ıd found that the mining developments had progressed far less than I had d to suppose. So far as I was able to judge, upon careful inquiry, I think ere not more than one hundred miners actively employed in the district, and these were doing what is known as prospecting work. In no one mine were ıore than three or four men at work. Considerable ore has been taken out, but ɔstly of a very low grade and will have to be smelted in the district. From developments I fail to see how the Clark's Fork mining district could support ay.

ıreful surveys for railway routes have as yet been made, although much mis-ıtion has been scattered broadcast about the impracticability of reaching the in any other way than through the Park.

routes, however, have been proposed—one by way of Stillwater River, from ter, on the Northern Pacific Railroad; one from Billings, Mont., by way of Fork; and one by Soda Butte and the Third Cañon of the Yellowstone River, through the Yellowstone Park for about 50 miles, nearly the entire length of d.

been stated that the mines are all situated on Soda Butte Creek, and to reach railway from the north or east would have to cross a high mountain range. ɔnsider an error. It should be understood that although Cooke City is situ-Soda Butte Creek, it is only a small settlement and inconveniently located rly all the recent mining developments of this district. All the more important ecent developments are situated either on the opposite side of the watershed streams tributary to the Stillwater and Clark's Fork, or else within a few hun-ɛt of the summit of the range. With a railway a mining town would be as well situated on either the Stillwater or Clark's Fork. From all I can am inclined to believe that the route following the valley of the Stillwater ɔve practicable. I have not examined it personally, but more accurate surveys ɛen made of it than of the other lines. I am told that it is feasible to build the within 15 miles of Cooke City. It should be borne in mind that all the newest locations are from 3 to 6 miles from Cooke City, high up in the mountains. ıd would be about 54 miles in length. Stillwater, the junction of the branch ith the Northern Pacific Railroad, is about 125 miles nearer Saint Paul than ar.

e personally examined the Clark's Fork Valley for 40 miles east of Cooke City, m of the opinion that if the mining interests demand a railway, a road could t from the mines to Billings, Mont., which would be far more serviceable road through the Park. There is on this route one very rugged place known k Fork Cañon, a deep gorge 6 miles in length, but I am told that it is quite to avoid it. The route, at least, seems so feasible that accurate surveys be made before granting a right of way through the Park.

well acquainted with the country through which the railway would have to going from Cooke City to Cinnabar. My own work has compelled me to study rd Cañon carefully, and I have no hesitation in saying that it would be a very natter to build the road for 18 or 20 miles from Gardiner to the East Fork of lowstone River. It has been estimated by the friends of the Cinnabar and City Railway that this road could be built for $1,000,000. It seems to me that utput of the mines at Clark's Fork could stand such an expense, either of the ɔutes should be ch sen.

y opinion there are many persons who are interested in obtaining this right of rough the Park who desire to use the road for the purpose of transporting rs who annually visit the Park in the summer. Having a right of way, and y one granted by Congress, they anticipate receiving large revenues derived urists. Upon the completion of the road we should see glowing inducements t to tourists of a railway ride through the Third Cañon of the Yellowstone, charming valley of the East Fork. The granting of one or two hundred feet ı side of the track would necessarily include Soda Butte Spring, the water of is already much sought after by many people, and the only one in the Park has yet been found to possess curative properties. In my opinion it would be a ɜ to allow this spring to pass beyond Government control.

not but believe that the establishment of a railway in the Park would prove a ent injury to the reservation, and tend to subvert the purposes for which the as originally set apart. The danger arising from forest fires would be very ınd the large game would disappear, as it has everywhere else, with the ap-ce of railways. With a railway in the Park 50 miles in length, with stations miles, disagreements difficult to settle would immediately arise between a ıl railway corporation and the management of the Park.

lway means the settlement of large numbers of people living in the Park, over he Department would have but little control. It would require constables, , and courts, and finally the people would ask for political privileges. It be the aim of the Department to permit as few people as possible to reside

permanently in the Park other than those engaged in the accommodation of visitors. A railway in the Park is, in my opinion, the beginning of the end. The demand of others claiming equal rights would grow with years, and in time the Park would have to be thrown open to settlement.

By preserving the Park intact for the next ten years it will take such a firm hold upon the country that the people will never consent to its desecration for purely personal ends. It belongs to Maine and Florida quite as much as to Wyoming and Montana, but in time the latter Territories will derive the greatest benefits.

With this letter I inclose a communication from Lieut. D. C. Kingman, in charge of the improvements, Yellowstone National Park. His letter is addressed to the editors of Forest and Stream, who kindly furnished me with a copy.

Very respectfully, your obedient servant,

ARNOLD HAGUE,
Geologist.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Engineer's Office, Omaha, Nebr., March 25, 1886.

EDITOR FOREST AND STREAM:

Your favor is received. I am surprised that my report of 1883 should be quoted as in any way favoring the construction of railroads for any purpose whatever within the Yellowstone National Park.

I think this must be a mistake. I have always been opposed to the construction of railroads in the Park. I have given this subject the most careful thought and study, and I should regard their introduction as the most serious injury that could be inflicted on the Park. And the construction of the Cinnabar and Clark's Fork Railroad would be especially deplorable, because it seems so unnecessary.

There is every reason to believe that the route up the Stillwater (lying wholly outside of the Park) is a better one for a railroad to the mines than that via the Yellowstone River and Soda Butte Creek.

DAN. C. KINGMAN,
First Lieutenant of Engineers, in Charge of Improvements, Yellowstone National Park.

WASHINGTON, D. C., *April* 6, 1886.

DEAR SIR: Understanding that your opinion has been requested by the Senate Committee on Territories through a letter from Senator Manderson, dated April 3, as to the effect of permitting the Clark's Fork and Cinnabar Railroad to penetrate the Yellowstone National Park, with your kind permission, I will state in short why, in my judgment, the enactment of such a law would inflict a serious blow to the interests of the Park.

By the organic act organizing the Park, it was set apart, to constitute forever a great National Park or reservation, for the benefit and enjoyment of the whole people. As expressed in that act, it was to be kept in a state of nature, free from settlement, occupancy, or sale. The only erections to be allowed within its limits were to be such few houses as should be needed for the accommodation of the visiting public. Besides the expressed objects in the act, it is universally conceded that the two main objects attained in the dedication of this wonderful region were the preservation of the great forests within its limits and of the large game of the West, which had been almost exterminated everywhere except in the country proposed to be embraced within the Park.

The objects contemplated by the act have in a great measure been attained. Not only from all portions of this country, but from all portions of the world, the people have come to behold the wonders of nature contained in the Park and to seek escape from the trammels of civilized life surrounding them at home. The main wonder and joy to them has been to behold everything that was beautiful in the Park in a state of nature: that the fair picture contained no blot of man's hand.

By the bill under consideration, all this is proposed to be changed. For the benefit of a private corporation, the pleasure ground of the whole people is to be invaded. Where they used to hear the plaintive cry of the elk will now be heard the shriek of the locomotive. The face of nature is to be scarred with a railroad, and one of the fairest portions of the Park surrendered to a corporation for that purpose, upon which may be erected, in the language of the bill, "station-houses, depots, and machine-shops." This railroad will run 56 miles through the Park, penetrating the wonderful cañons, cutting through the forests, and over the finest grass country in the Park, and pursuing its course along the beautiful Yellowstone River.

That the building of a railroad would be destructive of the beauty of the Park

l be conceded by all. No less clear is it that the project is opposed to the main ·poses for which the Park was set apart. Already a railroad reaches the very gate he Park, and since it has reached that point, they would have it penetrate within ıe sacred precincts."

n my report on the Park, made to you last September, and which has been com-nicated to the Senate and printed as Sen. Ex. Doc. 51, present Congress, I say at ge 7: "Interested parties have for some years brought to bear a constant pressure ɔn Congress and the Department to induce action in favor of a railroad through Park. This railroad is sought ostensibly for the purpose of bringing to market ore from Cooke City, a mining camp adjacent to the northeast boundary line of Park.

f there is one object which should be kept in view more than any other, it is that preserving the Park as much as possible in a state of nature. A railroad through would go far to destroy its beauty, and besides it is not demanded by the public. e roads are being improved yearly, and soon will make every portion of the Park sily accessible. The distance between the points of interest is not great, and trans-rtation is good and plentiful.

Apart from the consideration that a railroad is not needed in the Park, and that it ɔuld deface its beauty, is the further consideration that the preservation of the game d the forests would be unattainable should a railroad be allowed within the limits the Park. I think the Department should strenuously oppose the project. And I ther observe that the country through which the railroad would run was one much quented by game, and that if the object of projectors of the railroad was simply to ıch Cooke, I was satisfied that object could be practicably attained by a route which ıuld be wholly outside the boundaries of the Park.

It is needless to point out to one of your observation that the game will be utterly ıven away from the Park should a railroad be permitted. The road would run rough one of the wildest portions of the reservation within which the herd of buffalo, e remnant of the once mighty herds, now roams.

Nor need I dilate upon the damage to the forests which would result should the bill come a law. Owing to the dryness of the climate during most of the year, forest es are very easily caused, and once started do immense injury. A railroad would the means of greatly increasing the danger to the forests from fire.

In the report made at this session of Congress by the House Committee on Expendi-res for Indians and Yellowstone Park (Rep. No. 1076, page LIII) it is said, "The servation of the forests, which clothe with verdure the valleys, rugged declivities, d mountain peaks of the whole region, is of special moment. It is made very clear the practical and scientific views presented on this subject in the testimony, that regular flow of water in these regions is greatly dependent on these forests. It is, refore, in the judgment of the committee, of the highest moment that these forests ɔuld be protected from destruction either by fire or the axe. To this extent, hav-in view at once the beauty of the Park as a delightful resort of the people and value of the great streams of water that issue from the mountains, as well as the ıign influence of the forests on climate and health, this Park should receive the cial care of the Government."

Another consideration of importance is that if a railroad is allowed the difficulties ich the Department already labors under as to the management of the Park will greatly increased. It will be impossible to avoid more or less settlement along the e, and the introduction of a large number of people connected with the road. New es and regulations will have to be made, and when made, with the present force ler the superintendent, their enforcement will be very difficult, if not impossible.

n the general views which I have submitted I have not entered particularly into questions as to the most desirable route to Cooke City, nor as to the value of the vate interests proposed to be benefited by the railroad. The people of the whole ıntry are concerned in having the Park preserved for the purposes for which it was ginally dedicated, and no considerations of private interests should be allowed to erfere with such preservation.

t is to be regretted that the Committee on Railroads in submitting its report should ve been so much influenced by the statements of interested parties.

There is but one opinion, as far as I know, on the subject among the officers of the vernment who occupy important positions in the Park, and that is that the grant-of the desired right to run the railroad through the Park would be most detri-ntal to its interests. General Sheridan, who is thoroughly acquainted with the rk, I believe, shares this opinion, and I have grounds for saying would be glad to nmunicate his views to you when requested. It is to be hoped that the Senate mmittee on Territories will give the bill the consideration its importance demands.

Very respectfully, yours,

W. HALLETT PHILLIPS,

Late Special Agent for Investigations in the Yellowstone National Park.

Hon. L. Q. C. LAMAR,

Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, April 10, 1886.

SIR: I have the honor to acknowledge the receipt of the following letter:

"DEPARTMENT OF THE INTERIOR,
"*Washington, April* 6, 1886.

"SIR: I inclose copy of Senate bill No. 980, and accompanying report, No. 204, which have been submitted to this Department by the Senate Committee on Territories, and would be glad to have your views upon the following points, based upon your experience and researches in the Yellowstone Park region:

"The estimated distance the proposed road will traverse through the Park.

"The extent and importance of the mining region sought to be reached.

"The population and importance of the two towns sought to be connected.

"Whether, in your opinion, there is any other practicable route for a railroad to the Clark's Fork mining district.

"The comparative length of the two routes, if there are two, and the nature of the obstacles to be overcome.

"Whether there are objects of public interest on the proposed line that may be destroyed or impaired by this location.

"Whether the construction of this road would injuriously affect the Park in any way.

"In conclusion, I would be thankful for any amendments you may care to suggest that will be in the interest of the protection of the Park in the event of the building of this road.

"Very respectfully,

"H. L. MULDROW,
"*Acting Secretary.*

"Maj. J. W. POWELL,
"*Director Geological Survey.*"

In reply to the above, I have the honor to make the following statement:

Inclosed herewith is a map of a portion of the Yellowstone National Park. It embraces an area extending across the Park from east to west, from the northern boundary southward about 20 miles. It is a photograph mounted on cloth of the manuscript map now in process of construction in this office. The lettering is not yet upon the map, but it will serve the purpose of clearly explaining the route which the proposed railroad must take. The map is on a scale of one mile to the inch; the vertical intervals between contours are 100 feet.

THE YELLOWSTONE ROUTE.

The line of the proposed route through Yellowstone Park is shown upon the map in red ink. It starts at Gardiner, situate on the northern boundary of the Park. The terminus of the Park branch of the Northern Pacific Railroad is at present at Cinnabar, about 3 miles from Gardiner. From Gardiner the line follows up the Yellowstone River to the mouth of the East Fork of the Yellowstone; thence up this stream to the mouth of Soda Butte Creek; thence up this creek to where it passes into a district of country east of the Park, in the neighborhood of the Clark's Fork mining district. The route thus traced through the Park is about 46 miles. The extreme southerly point of the route near the mouth of Soda Butte Creek is a little more than 11 miles from the northern line of the Park. The altitude of Gardiner is about 5,400 feet above the level of the sea; the altitude of a practicable site for the terminus of the road in the mining district would be about 7,500 feet; therefore the altitude to be gained in running from Gardiner to the terminus of the road would be about 2,100 feet, and the length of the line would be from 50 to 55 miles. For 15 miles of its course the construction of the road would be somewhat difficult and expensive, from the fact that the road must run through a narrow and broken cañon. The remaining portion of the road would be of easy construction.

THE STILLWATER ROUTE.

There is a possible railroad route from Stillwater, a station upon the Northern Pacific Railroad, up Stillwater River to its headwaters in the Clark's Fork mining district, but the terminus would not be the same as that by the Yellowstone line, but would have to be on the other side of the "divide." This line would pass up a narrow valley through a number of broken and difficult cañons. The length of the route would be from 65 to 70 miles. The altitude of Stillwater Station is 3,570 feet

above the sea, and the altitude of a practicable terminus of such a route in the mining district would be about 7,500 feet; therefore the altitude to be overcome by such a railroad would be about 3,930 feet. There is no good map of the district of the country through which this line would have to pass, and hence the practicability of its construction can not be affirmed; but it would appear from the knowledge at command that the cost of its construction would greatly exceed that of the line through the Yellowstone Park, and the cost of running after construction would also be greater, from the fact of the greater elevation to be overcome, and also from the fact of its greater length.

THE CLARK'S FORK ROUTE.

There is still another possible route by which this mining district may be reached, namely, that extending from Billings up Clark's Fork, which stream heads in the mining district and gives it its name. The length of this route would be from 125 to 130 miles. Along the route there are a number of cañons presenting obstacles to the road. One cañon especially is said to present great difficulties, and it may be necessary to run the line outside of the cañon along the mountain slopes, in order to overcome this difficulty. The altitude of Billings is 3,115 feet; the altitude of a practicable terminus of this route would be about 7,500 feet, and would not be the same as that for the Yellowstone route or the Stillwater route. The altitude to be overcome by this route would be about 4,385 feet. The Clark's Fork route, therefore, is longer, perhaps presents more difficulties of construction, and a greater elevation has to be overcome. On the other hand, there are some considerations in favor of this route, from the fact that its terminus is farther east on the Northern Pacific Railroad, and from the further fact that along its course valuable deposits of coal are found.

Altogether, the Yellowstone Park route is shorter, can be more cheaply constructed per mile, has less elevation to overcome, and could be maintained and operated at much less expense then either of the other routes.

THE IMPORTANCE OF THE MINING DISTRICT.

No thorough information exists in this office relating to the importance of the mining region at Cooke City. It is known that mineral lodes have been discovered in this district of country, and have been worked to some extent. None of the workings have been extended to great depths, but many small workings have been made, and it is believed that much ore is now piled upon the ground. But the exploitation of the region seems not yet to be sufficient to warrant any expression of opinion in relation to the ultimate extent of the mining industries that may be developed therein. The early discoveries were on the head of Soda Butte Creek; later discoveries are on the head of the Stillwater and the head of Clark's Fork. The most important mine is the "Great Republic," which now has much low-grade ore on the dump-pile. Cooke City is a small settlement at the center of the mining district. If a railroad be built by any one of the routes its terminus will probably be lower down, and a new town will thus probably be established.

THE IMPORTANCE OF GARDINER.

Gardiner is situated on the Yellowstone River about five miles from the Mammoth Hot Springs on the north line of the National Park. It is a small settlement of log cabins and frame shanties. It derives its trade at present from the settlers living in the valley and from people visiting the Park. Cinnabar, the present terminus of the Park branch of the Northern Pacific Railroad, is about three miles away.

With regard to the effect which such a railroad would have upon the interests of the Park, the director does not feel that he is entitled to express an opinion.

I am, with great respect, your obedient servant,

J. W. POWELL,
Director.

The SECRETARY OF THE INTERIOR.

We do not attach the voluminous extracts from the Forest and Stream, and the maps referred to in the letter of the Secretary of the Interior, fearing that this report may be of too great length, but return them to the files of the Senate that they may be considered and given the weight that their importance demands.

We also file clippings from the Spirit of the Times and other newspapers, showing the view taken by an observing public of this projected railroad.

Upon the proposition that there is an available railroad route from the Northern Pacific Railroad to the Clark's Fork mining district by way of the Stillwater River, we file with the Secretary of the Senate a map showing that route. This map was prepared by a civil engineer of the town of Billings, Mont., who made personal exploration of the route, and reports as follows:

BILLINGS, MONT., *February* 20, 1886.

With the town of Stillwater as the initial point and Henderson Mountain as the terminus, the length of the railroad would be only 56 miles, with no heavy work, and comparatively very light gradients and curvature. I think that the average cost per mile should be less than $4,000. The only heavy work will be at the cañon, 41 miles from the mouth of the river, where there will be a rock cut possibly of 4,000 cubic yards. From the mouth of the river up to this point there is only light work, and above it, while there will be some rock work, there will be nothing that could be classed as heavy work.

The grade from Stillwater up to the cañon, distance 41 miles, will not exceed 80 feet per mile; from the Forks to Henderson Mountain, unless some distance be made by first running a short way up to the East Fork and then doubling back and going up the West Fork to the grade, will exceed this somewhat.

This route, having no divide to cross, will haul all of its heavy freights, for its entire length, with the assistance of gravity. .

The topography of the valley is such that all of the places where the snow drifts along the route, the road, at very small cost, can be kept above ground and so avoid all danger of snow blockades.

The route will develop the Rosebud, West Rosebud, Fishtail, and Boulder mineral, coal, and agricultural lands.

The Stillwater Valley for 23 miles has an average width of over a mile, from which point it contracts to three-quarters of a mile for a distance of 8 miles, after which it expands again to 1 mile for a distance of 10 miles. Above this, though the valley is generally contracted, there are several tracts of valley land comprising two or three hundred acres. This valley land is all fertile agricultural land, laying well for irrigation. The bench lands grow luxuriantly the best grazing grasses. I have explored the Yellowstone and Musselshell, and think these benches have as good stand of grass as the latter, while in water they far excel them.

The developed mineral lands of the valley extend from Henderson Mountain to Gallatin County. There are indications of coal all along the valley, well timbered for mining purposes.

From a late letter from the present efficient superintendent of the Park, we extract the following, showing the danger to the timber in the Park from the construction of railroads within its limits:

Another material point is the spread of fires from the locomotives. This country is so high and dry that it would be impossible to prevent the firing of the Park, and in less than three years' time there would scarcely be a green tree on the headwaters of the Yellowstone, to say nothing of the Park. Last fall I extinguished sixty-odd fires, resulting from the carelessness of campers, and the railroad would be an hundred times worse. To save the timber on the headwaters of the Yellowstone, Missouri, and Columbia Rivers should be of itself sufficient to prevent the granting of the right of way to any railroad company.

For the numerous reasons herein presented, we believe the bill under consideration should not pass.

CHARLES F. MANDERSON.
BENJ. HARRISON.
GEO. GRAY.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 939.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. FAIR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2066.]

The Committee on Claims, to whom was referred the bill (H. R. 2066) entitled "An act for the relief of Alfred McMurtrie," having considered the same, submit the following report:

The committee adopt the report of the House Committee on War Claims made at the first session of the Forty-eighth Congress, and again made by the same committee to this Congress, which contains a clear statement of the case, and recommend the passage of the bill. The report is as follows:

[House Report No. 1840, Forty-eighth Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 5583) for the relief of Alfred McMurtrie, submit the following report:

The facts of the case are these: That on the 5th of December, 1863, and January 18, 1864, Captain Miles, of the Twenty-first Regiment Pennsylvania Cavalry, took from the claimant in Luzerne County, Pennsylvania, the following quartermaster's supplies, to wit, 1,300 pounds of hay, 30 bushels of corn, and 50 bushels of oats, and gave receipts and vouchers for the same; that the price agreed upon at the time was, for the hay, $25 per ton; for the corn, $1.62 per bushel, and for the oats, $1 per bushel, amounting in all to $115.

February 9, 1883, Mr. Quimby, an agent of the Quartermaster's Department, who was charged with the duty of investigating this claim, after reviewing the evidence, says:

"The records of the office of the adjutant-general of this State [Pennsylvania] show that on the 23d day of August, 1863, the Twenty-first Regiment Pennsylvania Cavalry was ordered to Harrisburg, whence a detachment consisting of Companies C, E, K, L, and M was sent on duty to Pottsville and Scranton, Pa. George L. Mills, captain Company L, Twenty-first Regiment Pennsylvania Cavalry, was mustered into the service of the United States August 10, 1863, and was mustered out February 20, 1864. *From the evidence annexed, no question exists in my mind but that the forage claimed for was actually consumed by Government animals, and that it was delivered and receipts given to claimant therefor and lost as alleged.* I respectfully recommend that if, upon examination, the said receipts are found not to have been presented and paid, this claim be allowed for the full amount claimed."

After an examination to ascertain if the receipts were presented and paid, the Third Auditor, on the 16th day of July, 1883, reported "No payments to Alfred McMurtrie, of Luzerne County, Pennsylvania."

The Deputy Quartermaster-General, notwithstanding this report by Agent Quimby, disallowed the claim on February 18, 1884, for the reason that "the vouchers were not produced nor their entire and absolute destruction proven."

The uncontradicted evidence is that claimant produced the vouchers to Mr. Pardee, at Hazleton, Pa., to whom the officer taking the forage said he must look for pay. Claimant was told by him that he (Pardee) did not pay such claims, and was referred to another officer. The latter officer objected to the form of the vouchers, and a third

officer objected because the blanks used were commissary blanks. Finally, in his despair, he applied to Capt. E. H. Raush, of Mauch Chunk, Pa., for information, and Captain Raush forwarded the vouchers to Major-General Couch, at Chambersburg, Pa., requesting him to put the vouchers in proper shape, if necessary, and to return the same to claimant. After that no more was seen or heard of the vouchers. This being the fact, the claimant has proved the loss of his vouchers, or traced them to the custody of the Government. If General Couch received them they are in the custody of the Government, and it cannot ask the claimant to produce papers in its own possession; if the Government has not possession of the vouchers the loss of them is satisfactorily established.

The loyalty of the claimant is fully established; in his pursuit of a very simple and plain right he has been put to great expense and subjected to great loss of time. The extreme caution and vigilance exercised by the War Department in allowing claims cannot be too highly commended, but in this case it has disallowed a highly meritorious claim.

The committee recommend the allowance of the claim for the sum of $115, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 940.

IN THE SENATE OF THE UNITED STATES.

MAY 5, 1886.—Ordered to be printed.

Mr. BUTLER, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 250.]

The Committee on Naval Affairs, having had under consideration Senate bill 250, submit the following report:

The subject-matter embraced in this bill has been twice reported upon by committees of the House of Representatives.

First, by the Committee on Naval Affairs, January 23, 1885, which was as follows, and is made a part of this report:

[House Report No. 2314, Forty-eighth Congress, second session.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 7764) for the compensation of certain officers of the Navy for losses of their property by the loss of the U. S. S. Ashuelot, have considered the same, and report:

That the U. S. S Ashuelot left the harbor of Amoy, China, on February 17, 1883, for Swatow, China, and shortly after 4 o'clock on the following morning was run upon some rocks off the southeast end of East Lamock Island, and in consequence thereof was lost. The fog was very thick at the time of her striking, and the sinking of the ship thereafter was so sudden that the officers and men were barely able to save themselves. In fact, eleven of the crew went down with her and were lost. The survivors were able to save none of their personal effects, except such articles of clothing as they were wearing at the time of the disaster. By order from Rear-Admiral J. M. B. Clitz a court of inquiry was convened on board the United States flag-ship Richmond, at Hong-Kong, China, February 26, 1883, to inquire into the circumstances attending the loss of the U. S. S. Ashuelot, on the Asiatic station. After diligent and thorough investigation and mature deliberation on the testimony recorded on the trial, this court reached the conclusion—

"That the loss of the said vessel was mainly due to the fact of want of caution on the part of Commander H. E. Mullan, United States Navy, then commanding the said vessel, in that no specific directions for speed were given in the night orders of the 17th of February, and that the dangerous Lamock Islands were steamed for in foggy weather, and with a possibility of variable currents; and that the loss of the said vessel did not occur through the instrumentality or the neglect or inattention of any other officer or officers, or any other person of the said U. S. S. Ashuelot."

Afterwards Commander Horace E. Mullan and Passed Assistant Engineer Robert R. Leitch and James Entwistle, who were officers serving on the Ashuelot at the time of the disaster, were arraigned and tried before a general court-martial which convened May 2, 1883, on board the United States flag-ship Richmond, at Hong-Kong, China, by order of Rear-Admiral Peirce Crosby, commanding the United States naval force on the Asiatic station. There were three charges against Commander Mullan, as follows:

(1) Drunkenness on duty.

(2) Improperly hazarding the vessel under his command, in consequence of which she was run upon a rock and lost.

(3) Neglect of duty.

He was found guilty of all three charges, and sentenced "to be dismissed from the United States naval service," which sentence, having been approved by Rear-Admiral Crosby, was, on the 6th day of July, 1883, confirmed by the President. It thus appears that the responsibility for the loss of the Ashuelot has been placed upon Commander Mullan by two courts. As to the two passed assistant engineers mentioned above, it is sufficient to say that each was found guilty of "neglect of duty," consisting in a failure to see the officers and men of the engineer's department, who were at the time in the engine-room and fire-room, sent up from below after all hands had been called to abandon ship, the Ashuelot being then in a sinking condition; and that Passed Assistant Leitch was sentenced "to be publicly reprimanded by the honorable Secretary of the Navy," and that Passed Assistant Entwistle was sentenced "to be suspended from duty for one year on leave of absence pay, and to retain his present number in his grade for that period." It is proper to add, in justice to these two officers, that the finding of the court was that the evidence adduced did not sustain the allegation that the lives of the officers and men were imperiled by their neglect of duty. The proceedings, findings, and sentences in their cases were approved by Rear-Admiral Crosby, who convened the court by which they were tried and condemned, and the sentence in each case was executed.

With these facts before them, the committee do not think that the proposed relief should be extended to Commander Horace E. Mullan and Passed Assistant Engineers Leitch and Entwistle; as to the first named there can be no doubt, because he was adjudged to be responsible for the disaster by which the losses were occasioned. His name is omitted from the bill, and therefore it is unnecessary to say more in reference to him. And as to the two engineers, your committee are of the opinion that they also ought to be excluded from the provisions of the bill because found guilty of neglect of duty at a time of great peril, when it was incumbent upon them to be more than ordinarily active, prompt, brave, and vigilant. Your committee believe that it would furnish a bad precedent to remunerate them for their losses. As to the other officers of the Ashuelot, it appears that they were guilty of no neglect of duty, and that the amounts proposed to be paid for their losses are not in excess thereof.

Your committee therefore report back the bill (H. R. 7764), with the recommendation that it do pass with the amendment incorporated therein as reported.

Second, by the Committee on Claims of the House, March 2, 1886 in the following language, which is also made a part of this report:

[House Report No. 824, Forty-ninth Congress first session.]

The Committee on Claims, to whom was referred the bill (H. R. 2110) for the relief of the sufferers by the wreck of the U. S. S. Ashuelot, respectfully report:

The U. S. S. Ashuelot was wrecked off the Lamock Islands, in the China Sea, on the night of the 18th of February, 1884. The bill provides a compensation to those on board for the loss of their effects, which went down with the vessel. It also provides a sum equal to twelve months' sea pay of each person lost, to the surviving kindred of each such person. A bill of similar nature, in the case of the steamer Jeannette, has been reported this session from this committee. (See Report No. 662.)

Among the precedents which might be cited in behalf of bills of this nature are the brig Somers in 1848, the brig Washington in 1853, the Grampus in 1854, the Oneida in 1870, and the Huron lost off the coast of North Carolina in 1877.

Section 2 of this bill gives the twelve months' extra pay to—

"The widows, child or children, or in case there be not such, then the parent or parents; and if there be no parents, the brothers and sisters of those in the service who were lost in the wreck."

As observed in Report No. 662, we think the policy of granting these gratuities should not be broader than is observed in the case of pensions. We therefore recommend that the bill be amended by inserting in line 2, section 2, of the printed bill, before the word "parent," the word "surviving." Also by striking out in lines 2 and 3 of section 2, the words "and if there be no parents, the brothers and sisters." Also by inserting between the fifteenth and sixteenth lines of section 2 in the printed bill these words, to wit: "*Provided*, That in any case where heretofore a pension has been granted, or may hereafter, in fact, be granted, to any such widow, child, or dependent parent, by reason of the death of any of the persons named in this section, in the payment of such pension account shall be taken of any sum paid as above provided, and to the extent of its amount said sum shall be in lieu and stead of such pension, and no further." After the word "provided," in sixteenth line of same section, insert "further," and that when so amended the bill do pass.

Your committee submit herewith a letter from the Secretary of the Navy in response to an inquiry, with which he transmits a communication from the Fourth Auditor of the Treasury Department, setting forth

the losses sustained by the officers of the steamer Ashuelot, as certified by them on honor. Some of the amounts are in excess of the amounts provided in the bill, but the precedents have established a round sum to be paid in satisfaction of the losses, and your committee recommend the passage of the bill without amendments.

NAVY DEPARTMENT,
Washington, April 7, 1886.

SIR: Referring to your communication of the 2d instant, inclosing a copy of Senate bill No. 250, "for the relief of the sufferers by the wreck of the U. S. S. Ashuelot," and requesting information as to the losses sustained by the officers and men of that vessel, and as to the manner in which the sums specified in the bill have been ascertained, I have the honor to state that it appears from the records in this Department that the circumstances attending the loss of that vessel were such as to entitle her officers and men to compensation for the loss of their personal effects, as authorized by sections 288 and 290 of the Revised Statutes. But it will be seen that under the provision of law referred to, the allowance which may be made by the accounting officers of the Treasury is limited in each case to a specified sum, without reference to the actual loss that may have been incurred. In all cases of loss of personal effects the claims of those who have suffered such loss are presented to the accounting officers of the Treasury, in the manner stated in the accompanying copy of a communication from the Fourth Auditor, relating to the claims filed by the officers mentioned in the bill referred to. This Department has no other information upon its files as to the value of the personal effects so lost.

In reference to the provision contained in section 2 of the proposed bill, I have to state that similar action was taken by Congress in the case of the U. S. S. Huron, by the act approved December 14, 1877 (Stat. at L., vol. 20, p. 497). It is perhaps proper to state, also, that the names and ratings of the men therein mentioned, who lost their lives in the wreck of the Ashuelot, have been compared with the list of persons reported as lost on board that vessel, and found to be correctly stated, except as noted on the copy of the bill, which is herewith returned.

Very respectfully,

W. C. WHITNEY,
Secretary of the Navy.

Hon. M. C. BUTLER,
Committee on Naval Affairs, United States Senate.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
Washington, D. C., April 6, 1886.

SIR: In answer to your verbal request of this date, I have the honor to state that the following-named officers, late of the U. S. S. Ashuelot, have made claims for reimbursement for clothing, &c., lost by the sinking of that vessel, and that they have filed certificates, on honor, showing their losses to be of the value set opposite their respective names, viz:

Lieut. Andrew J. Iverson	$949 00
Lieut. Hy. T. Stockton	1,971 30
Lieut. Frank L. Hotchkin	1,124 00
Lieut. T. E. D. W. Veeder	929 00
Paymaster E. N. Whitehouse	1,468 00
Past Assistant Engineer James Entwistle	1,102 00
Past Assistant Engineer S. H. Dickson	1,293 62
Assistant Engineer J. M. Pickrell	903 00
Naval Cadet S. H. Williamson	894 00
Naval Cadet William T. Webster	321 16
Pay Clerk David Mouat	901 75
Mate A. F. Callender	715 85
Naval Cadet Silas H. Wright	916 00
Lieut. A. B. Wyckoff	1,584 00

These amounts appear to have been for personal apparel, uniform and civilian; jewelry, books, money, curios, and general personal property.

No schedule has been received from Past Assistant Engineer Robert R. Leitch.

Very respectfully,

C. M. SHELLEY,
Auditor.

Hon. W. C. WHITNEY,
Secretary of the Navy.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 941.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. FRYE, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 2362.]

Your Committee on Foreign Relations, to whom was referred Senate bill 1616—a bill "to promote the political progress and commercial prosperity of the American nations"—have considered the same, and report the accompanying bill as a substitute therefor, with a favorable recommendation.

Your committee annex and make a part of their report the accompanying statements of the United States commissioners to South and Central America, made before them, together with certain extracts from the testimony taken by said commissioners in their investigation.

REMARKS

OF

S. O. THACHER

BEFORE

The subcommittee of the Committee on Foreign Relations upon the bill introduced by Hon. William P. Frye, entitled "An act to promote the political progress and commercial prosperity of the American nations."

Mr. CHAIRMAN: The measure before the committee is in part the outgrowth of the act of Congress of July 7, 1884, providing for a Commission to the States of Central and South America for the purpose of ascertaining the best modes of promoting more intimate international and commercial relations between those countries and our own.

Having filled as well as I could the position of Commissioner under that law to those countries, you have kindly invited me to place before you the results of my observations so far as the same are applicable to the proposed legislation.

In the final report of that Commission I have at some length endeavored to gather into a readable review the most obvious reflections flowing from the long journeys and many interesting interviews with the leading officials, merchants, and educated men in those parts. To what I have there said I now add such observations as seem to me pertinent to the question before the committee.

ITS IMPORTANCE IN SOLVING THE INDUSTRIAL PROBLEM.

The question before the committee is one whose magnitude and far-reaching importance cannot be too earnestly considered.

It brings into view questions affecting our own welfare as a nation, casting light upon the solution of a grave and ever urgent problem. The industrial outlook of our land is not one of entire sunshine. There are more laborers than there is work for them to do. Where one man is discharged from almost any of the manual occupations there waits one to take his place.

The inflow of laborers from other lands to this is no more a great need. In every department of industrial life there is production beyond consumption. Labor is struggling to hold its position and is fearful of being displaced or of losing its present ground. The products of farm, shop, and factory were never, within the memory of this generation, so low as they are now. In some branches of production there is a slight reaction from the paralysis of the past, but on the whole, as never before, our future growth, peace, and tranquillity depend on find-

ing more consumers for what we have to sell. In this measure there is an effort to open to our producers of agricultural and manufactured wealth an adequate market.

In vain do we turn our eyes to any other part of the world for a people who at once need and are willing to take from our farms, looms, forges, and wells of mineral oils that which we are able to produce and spare. The nations of Central and South America offer not alone the most alluring and most profitable markets whereby to relieve our excessive productions, but there is no other field.

The statesman who shall secure that great region so contiguous, so easily reached, and so prolific in wants, for the easy disposition of our merchandise, will be entitled to the highest commendation.

Labor can be constantly employed at fair wages when what it produces can be sold at a fair profit. This condition failing, the whole fabric of society suffers alarm. There is no crying need of legislation to reconcile one element of our social progress with another when there is employment for all who are willing to labor at a remunerative compensation.

It seems clear to me that the relations between employer and employé will readily adjust themselves when the venture to which each contributes is one of gain and not of loss. And no law can produce harmony between labor and capital when the enterprise which enlists both proves disastrous.

The easy way and the only way out of the complications and disappointments that yearly are being intensified by the diminishing profitableness of all our industrial enterprises is to seek that market which so cordially invites us, and from which with strange fatuity we have for the last twenty-five years averted our thoughts.

The statistics time and again have been brought before the public, and have at much length been represented in the first general report of the Commission to Central and South America, showing how dismally meager is our trade with those countries, which once were our well-pleased customers, and with whom we could most easily re-establish our former friendly and profitable relations. There is no need of enlarging on this point. It presses itself upon the thoughtful consideration of every law-maker as well as upon the whole people.

A very interesting summary of our trade and that of other nations with Central and South America was published by the Treasury Department in January of last year. It is a brochure comprising statements Nos. 17 to 41, inclusive, of the quarterly report No. 1, series 1884–'85, of the chief of the Bureau of Statistics. Its preparation, Mr. Nimmo says, grew out of the recent demand for information by Senators, Representatives, and others interested in the trade of those countries. To the condensed statistics there presented I cannot add anything of value except such statements as pertain to subsequent trade relations. These are not within my reach.

Peace, progress, and the manifold blessings of contented producing classes wait on the footsteps of any measure that shall insure to our laborers, our farmers, and our manufacturers a fair chance in the markets of Central and South America. To-day they are nearly closed against them. The causes of this denial to our people of an easy access to those natural depots for our surplus products have been set out very fully in the various reports the Commission to those nations has submitted, and which I learn will in a few days be received by Congress from the Government Printing House. In them and in the many statements sub-

joined to each of them will be found the remedies for the deplorable state of trade in those parts.

Farther on I will briefly advert to these causes; I only now state the fact.

INTERNATIONAL ASPECT OF THE MEASURE.

But the proposed measure rises to a higher plane than that of merely seeking a rich and permanent outlet for our surplus products. It proposes to secure the "political progress" as well as the "commercial prosperity" of those countries and our own. And yet in accomplishing this nobler end we shall certainly contribute to the success of the other.

I cannot on this point say more than quote from the final report before mentioned:

The scope of our mission, as defined by the act of Congress creating it, embraced an inquiry into "the best modes of securing more intimate international and commercial relations between the United States and the several countries of Central and South America."

In the course of our inquiries we became convinced that it is quite as axiomatic that commerce derives support and promotion from friendly political relations, as that trade quickens international unity. They mutally aid each other. Whatever tends to bring into kindly accord the diplomatic interests and aims of our country and those of our American neighbors, whatever unifies our national purposes, benefits commerce. Mutual confidences in matters of state foster equal trusts in business transactions. Peoples held together in close political relations naturally have a greater faith in the fidelity of the products of each other. Confidence lies at the basis of every business operation and of every national compact; and where it is found wanting in one, it will not be strong in the other.

Necessity or profit may force trade into a channel of a purely business character. where international respect or fellowship is slight, but commerce flourishes much more naturally and vigorously under the protecting care of faithful and constant national harmony and concord. The disruption of friendship between nations is a disaster to their mutual trade interests. As we write this report the Spanish people, at home and in the colonies, are resolving against trade with Germany because of the supposed affront in the seizure of the Caroline Islands. Other things being equal, trade will be facilitated by warm international ties; wise and just diplomacy will aid the merchant and trader as much, at least, as they in turn can promote friendly international relations.

OUR EXAMPLE FOLLOWED.

That nations exert an unconscious influence as well as individuals is remarkably illustrated in the history of the Republics of Central and South America.

A people far removed from us by ethnic conditions and civil and religious training, dwelling in cities whose foundations were laid by Cortez, Alvarado, Pizarro, Valdivia, and Mendoza a century before Plymouth Rock, and twice that period ere Bunker Hill and the Declaration of Independence, turned their eyes towards our great example, and for themselves after heroic sacrifice destroyed the rule of the rapacious and exacting viceroy, severed the ties of colonial dependence, and erected on the ruins of foreign customs and impositions governments in imitation of our own.

OUR INDIFFERENCE.

Yet during all the subsequent years, our country has, until recently, turned an icy look upon these struggling Republics and our diplomacy has been no whit warmer or more friendly towards them than it has towards the several despotisms of the Eastern Hemisphere.

While we have been a conspicuous propagandist of democratic institutions by our deeds of self-deliverance and aggrandizement, we have neglected to aid by sympathy and counsel those who were eagerly *hoping* for them.

Overtures for a more kindly fraternity have been treated by us with silence, and an effort on the part of these peoples to draw near to us in more rapid and certain communications have been met by cold indifference.

DESIRES FOR A CONVENTION.

The wonder remains that notwithstanding all this neglect to cultivate and encourage those nations they still admire our greatness, and long for a nearer bond of union and fellowship. Every line of the reports of the many conferences held by the Commission with the representative men of those nations shows how fervently and with what glad surprise our overture for a convention of all the nations of the American Continent was welcomed.

ATTITUDE OF CHILI.

An exception may possibly be noted in the case of Chili. Yet I think that as that Government exhibited an unwonted desire to have realised two objects to be considered in such a conference, and which can be more readily attained through it than in any other way, namely the adoption of a common silver coin which shall be current in all the countries of the western hemisphere, and also the promotion of direct, speedy, and frequent steam navigation between the ports of North and South America, I conclude that at the proper time Chili will not only assent to such a convention, but will be represented there by men of large statesmanship.

It may be well to say that there were three things that gave to the mission to Chili less of warmth than it received in other states. Chili justly regards itself as the most important power on the South Pacific coast. In the interview I had with the President and his cabinet he remarked that the course his Government should take on the matters brought forward by me would be followed by the other powers of that coast, and that consultation with them was needless. It happens that Chili was the last instead of the first nation visited on the Pacific. Again, the letter accrediting the Commission mentioned three persons as being sent to Chili with the highest diplomatic rank; of the three only one appeared. The President declined to recognize the telegraphic permission sent by Mr. Bayard to the secretary of the Commission, Mr. Curtis, to act as commissioner for Ecuador, Peru, and Chili. Here, too, was a cause of irritation and some embarrassment. To this must be added, as I was informed by our minister, Mr. Logan, a certain coolness growing out of the apprehension that with the change of administration in our country would come an earnest effort by our Government to enforce upon Chili the payment of various claims of our countrymen for alleged losses suffered by them in the war between Chili and Peru. I believe to these apparently minor matters was owing the somewhat defensive and non-committal attitude of Chili.

I have no doubt of there being present at the convention when called by our country representatives from every one of the western powers, and that these delegates will be men of great weight at home in all the matters affecting their foreign relations.

OPINIONS OF LEADING MEN.

To be persuaded of this I need only quote utterances of the public men of those lands on the relations that do or should obtain between their country and ours.

In 1879 the Executive power of the Argentine Republic sent to Congress a message urging a subsidy to be granted to establish a line of steamers between the ports of the La Plata and our own. In it occurs the following passage:

The Executive power considers it useless to dilate on the considerations upon the advantages of a direct communication with the most powerful commercial and free nation that has best realized the forms of government that we have accepted, following precisely its example. This other market that opens itself is a new interchange for the men, the ideas, and the products.

The President of Chili, in responding to the address I made at the time I was presented to him, among other things, said as follows:

The extraordinary progress of the United States, independent of the advantage gained by the extension of its area, of its geographical position, and the elements which constitute its social organization, is due to the liberal institutions under which the people are governed, and by which it has been proven that the free people are those that really prosper, and are the only ones that have peace as the essential condition of material, intellectual, and moral progress.

The South American Republics when they made themselves free had in the northern zone an authority they could consult and an example they could follow. If owing to reasons which are well understood they could not copy the edifice you have framed, they have always endeavored at least to inspire in their own people the ideas which have enabled you to advance so resolutely on the road of human liberty and progress. If on this road so happily trodden the American constellation has added to its stars, it is also true that the southern star, following with no less certainty in the same heavens, and pursuing the same purpose, shines to-day with greater splendor and shows that we have not been amiss in seeking the path to glory, liberty, and prosperity.

Not less earnest and admiring were the words of the President of Guatemala, as witness the following from his response of welcome to our mission:

It is the source of the greatest gratification to me to receive from your hands the autograph letter by which his Excellency the President of the United States has accredited you as envoys extraordinary and ministers plenipotentiary to my Government. From the very beginning we have embraced with the greatest ardor the plan of the American Congress to send a commission to the Spanish American Republics for the purpose of securing more intimate and friendly relations between them all.

Such a noble and elevated purpose cannot but have the sincerest sympathy and cooperation from all those who desire the progress of the several nations of the New World, so that in having the honor to receive you and give you a most affectionate welcome, it is gratifying to be able to assure you that you will find on the part of the Government and the people of Guatemala a sincere disposition to aid in the success of your most important mission.

The grand Republic of the United States is the natural market for the different products we export, and they should find in your rich and populous consumers who are able to send us in return the great variety of their agricultural and mechanical products with benefit to the producers and consumers of both countries.

Guatemala has always endeavored to maintain the greatest harmony with the nations which honor us with their friendship, and it has always endeavored very especially to strengthen more and more the cordial relations which have forever existed between this country and the United States, so that when you come, vested with an exalted duty by the grand American Government, inspired with the benevolent sentiments which you have just uttered, I have the honor to congratulate myself upon your arrival, and promise to leave nothing undone to make your visit a success, and enter into bonds with you to unite more closely two peoples which by their analogous institutions, by their geographical positions, and many other circumstances and considerations, should establish a more active and lucrative commerce.

Without wearying you with these iterations of the desire of the American peoples visited by the Commission to realize such results as are propsoed in this measure, I will content myself by adding the following from the President of Mexico, a most progressive and enlightened statesman:

Mr. Commissioner Thacher then quoted the instructions of the Secretary of State *relating* to an international congress of delegates from the several nations of the

American hemisphere, and asked the views of President Diaz as to the practicability of such a congress, and his opinion as to the topics which it should consider.

To this President Diaz replied that the suggestion was an old one, and had many times been considered by the Mexican Government, which he believed had always favored it. He recited his recollection of the several attempts made in this direction, beginning with Bolivar's plan of 1824, and the attitude presented on each occasion by the several administrations in his own country, showing great familiarity with the history of the proposition. He said he had always hoped such an international congress would be some time held, as he believed great good could be accomplished if all the American Republics would consent to send delegates to meet upon an equal footing and agree upon measures for the common welfare.

The chief object to be discussed at such a gathering would naturally be a method of arbitration by which international differences could be peacefully adjusted, and another, equally important, was to confine American trade, so far as possible, to American nations.

I venture on one more quotation; it is a paragraph from the response of the President of Venezuela:

I respond in the most frank and cordial manner to the expressions of good-will of your Government, and I view the very elevated object of your mission from the standpoint of its great importance.

Venezuela and the United States have the same institutions, the same history. They produced the immortal George Washington, "the first in the hearts of his countrymen," and Venezuela produced the immortal Bolivar, the father of five republics, freed by the impulse of stupendous efforts. Both of them honored by the recognition of the two confederacies, they are to-day the faithful representatives of the association of our interests and aspirations—equality before the law and the truth of democracy.

With these lofty motives the people of the New World aspire by union to seek the development of their industrial and commercial prosperity and to cement the alliance of views and intents in the reign of equity and the empire of justice.

EFFICACY OF PROPOSED LEGISLATION.

The twofold object unfolded in the title of this bill will, I conceive, in a large degree be realized by its enactment.

The historic fact that our example has led to the creation of republics striving to realize our progress and destiny imposes upon us a different relation to those peoples than that which we hold to other nations. This is intensified by the propinquity of these constitutional governments and by the further consideration that while we have forborne giving them much aid or comfort in the past, we have quite emphatically repeated our objection to the acquisition by any European power of any territory in the western hemisphere.

It is that relation that this measure proposes to exalt in the eyes of the world—to give it form, expression, and efficacy—to assume for the greatest Republic on earth, if not the greatest nation, a significance and moral power towards those states which have found in her antecedents and marvelous development a model for their own institutions, heretofore forgotten or neglected.

The proposed law is a lofty recognition of the truth that no nation with a republican form of government can live to itself alone.

It is this international aspect of the proposed congress that will draw the attention of mankind to its deliberations, and will make it in many respects the most remarkable if not most important assemblage the world has ever seen. Its benign objects, when contrasted with those of other national conferences where the repression of human liberty and progress were the bonds of the confederating potentates, will add to its work dignity and crown its conclusions with the wreath woven for that which ennobles and enlarges humanity.

DIFFERENT PROPOSITIONS OF THE BILL.

The first and seventh propositions of the bill are those on which territorial integrity and national tranquillity depend. The mind at once sees how impossible national dismemberment or aggressive wars would be under the provisions foreshadowed in these suggestive topics.

Peace is the imperative need of these Spanish republics. The tyranny of the mother country is so recent, and it burned so deeply into the subjected provinces, that their chief national dislike is the country whence came the viceroys and rulers over them. But with the disappearance of the Spanish yoke there rose military rulers, and for a time the army made presidents and cabinets.

A government founded on universal and intelligent suffrage cannot even yet be said to be fully realized in some of the Latin nations of this hemisphere.

Against violent measures of any kind these provisions of general concord would be powerful defenses.

SAME RESULT AIDED BY PERSONAL KNOWLEDGE OF OUR INTERIOR LIFE.

It is in this direction that a great educating force would be brought to bear upon the delegates from our sister states by a sojourn in our midst under the hospitable welcome of our Government.

Our schools, our higher institutions of learning, our religious life where church and state are totally independent of each other, our industrial pursuits and growths, our systems of internal improvements, in fine all that intense personal freedom of thought and action out of which has grown our present commanding position, would profoundly impress our visitors and they would carry back to their own lands new views and purposes.

The result would be the same in part at least as that I pointed out in the final report as following the education of their young men in our midst:

Every year there are delegations of young men from each republic finding educational homes and advantages in the schools of Europe, whence they bring back at least far less accurate ideas about and love for American institutions than they would were they returning from our colleges or higher schools of learning. A number of young men from each republic, ingenious and eager for mental improvement and education, annually educated in our midst, familiarized with our progressive life, the spirit of our laws, the genius of our institutions, and the comprehensiveness of our energy, would, in a few years, make a marked change in the knowledge their people have of the United States.

They now admire our greatness, but then they would revere the benign principles, the complete tolerance, and the singleness of purpose and aim on which the whole superstructure of American growth, power, and welfare rests. They would feel that the impulses of equality, religious toleration and independence, and the isolation of Government from all aims save those essential to the protection of the person and property of the people, were the secrets of a power and elevation their countrymen so much applaud. They would be missionaries returning to their countrymen with the story of our people, life, and achievements, and holding them up for imitation.

They would speak of the filling of the great offices of state by a free, uncoerced ballot, and the quiet acquiescence of 55,000,000 of people in the will of the majority however narrow that might be. What more powerful argument could they bring against the too frequent revolutions in those states that follow their recurring national elections?

They would point their countrymen to school-houses in the smallest rural district of the great Republic, as in the most populous wards of its thronged cities, to the schools of art, technology, industrial pursuits, and classical and scientific acquisition whereby the blessings of a free education are brought within the reach of the poorest *child in the* land. They would tell their people of a state where every form of re-el

ious faith is protected but not supported by law, and yet where the spires of churches, temples, and cathedrals rise above the roofs of every city and the groves of every village, hamlet, and neighborhood, scarcely out of sight of the traveler as he passes from ocean to ocean. What stronger motives for the independence of the church and the education of the masses could they place before their patriotic countrymen?

To this end the delegates should be shown our great centers of trade and business, our manufactories and our appliances for agricultural development, and be afforded by extended tours from the Atlantic to the Pacific coast, from the lakes to the Gulf of Mexico, an opportunity to behold on a grand scale the workings of our elastic institutions.

COMMERCIAL FEATURES OF THE BILL.

Turning to the other details of the proposed law, we find they tend to one point—the promotion of trade, the building up of commercial interests by and between the consulting Governments.

This aspect of the matter opens a wide field of inquiry and in some degree of speculation.

The peculiarities of the Latin race in America lead it away from manufacturing pursuits. Valencia centuries ago imported wool from England and returned it in cloths, but the process is now reversed.

Great Britain manufactures for the world, and Spain, with all the colonies she planted, contributes to her commercial supremacy.

In Spain there is cheap fuel and plenty of water-power. In Spanish America, from Mexico to Magellan, there are few coal-fields, but almost everywhere flowing streams, furnishing the cheapest and most abundant power.

Guatemala, Costa Rica, the western slopes of the Andes, Uruguay, and portions of the Argentine Republic have unfailing and enormous stores of this easily-used motor. Yet in Costa Rica I saw only two water-driven mills; in Guatemala there were a few more; yet not one-thousandth part of the water-power was utilized. The Rimac for nearly 70 miles is a dashing cascade, with only a tannery, a brewery, and possibly a few other industries at Lima holding in check for a few minutes its rushing flood.

Chili in the Mopocho and the Maipo has powerful streams, and hundreds of smaller water courses find their way to the ocean.

The report from Uruguay calls attention to its internal water-power, and the statements submitted with the report from the Argentine Republic show how immense is the water-power in the Gran Chaco region.

We must conclude, then, that the want of manufactured products in these countries grows out of either or both of two causes; the one a disinclination to take up the patient, steady routine of daily toil necessary to successful manufacturing, and the other a greater profitableness in other more congenial pursuits.

Without dwelling on the point, I may say that it is safe to aver that these countries will for years be great consumers of foreign manufactured goods.

In Chili the war with Peru demoralized the soldiers, many of whom were taken from the ordinary pursuits, and, returning from their conquest, failed to take up the peaceful avocations they left; and yet Chili is beyond doubt in manufactories the New England of South America. The special report on this country fully covers this question.

In any trade relations we may establish with those countries we may reasonably count on the permanence of the demand for our goods.

OUR COMPETITORS.

The larger portion of the commerce we are seeking has been in the hands of Great Britain, but of recent years another, and what promises to be a more formidable rival, has come to the front.

The German manufacturers, entrenched behind encouraging and protecting legislative walls, have pushed their products far beyond the home demand. Always sure of their own market without competition, they have turned their unflagging energies to secure centers of trade in the Western Hemisphere. They are clever imitators of every new invention, of every improved machine, and of many of the most useful and popular goods produced in the United States. They send out counterfeits of the famous "Collins" wares, even to the very brand; they make mowers and agricultural implements as nearly like ours as possible. Our sewing-machines are copied by these people, and the imitations are palmed off on the South American trade as coming from the United States. The character and ways of these new rivals for the trade of our neighbors is thus graphically portrayed by our former consul-general in Mexico, Mr. Strother, and I may add that what the German is in Mexico he is in all the other Central and South American nations.

General Strother says:

> For the rest it will still remain with American manufacturers and merchants to solve the question of successful competition with their European rivals, the most formidable of whom at present are the Germans, whose commercial establishments are more substantially planted and more widely extended than those of any other foreign nation. And it may be well here to note their methods and the causes of their success. The German who comes to Mexico to establish himself in business is carefully educated for the purpose, not only in the special branch which he proposes to follow, but he is also an accomplished linguist, being generally able to converse and correspond in the four great commercial languages—German, English, French, and Spanish. His enterprise is usually backed by large capital in the mother country. He does not come to speculate, or inflated with the hope of acquiring sudden fortune, but expecting to succeed in time by close attention, patient labor, and economy, looking forward twenty, thirty, or even forty years for the realization of his hopes. He builds up his business as one builds a house, brick by brick, and with a solid foundation. He can brook delays, give long credits, sustain reverses, and tide over dull times. He never meddles with the politics of the country; keeps on good terms with its governors, whoever they may be. He rarely makes complaints through his minister or consul, but if caught evading the revenue laws, or in other illegal practices, he pays his fine and goes on with his business. With these methods and characteristics, the German merchant generally succeeds in securing wealth and the respect of any community in which he may have established himself.

In a conversation with the British minister, Sir Spencer St. John, in Mexico, he observed to me that the success of the Germans in dealing with the revenue officials and in pushing their trade had driven out of Mexico, every wholesale English house, whereas the foreign commerce was once largely in the hands of his countrymen.

In passing from this point we must not forget that notwithstanding all this copying of our productions by the German manufacturer, yet the deception deceives few, and that were the markets open to our dealers the superior material, workmanship, and fidelity of our goods would defy all competition.

The French, equally protected by home legislation and alive to the wants of the South American markets, are increasing their trade there.

Indeed we must meet in the ports of our neighbors the wares of many of the European countries, all of which are borne to their destination in vessels flying their own national ensign.

STEAMSHIPS A NECESSITY.

This brings me to the pivotal point in all our efforts to secure those markets to ourselves. In round numbers $400,000,000 of imports are consumed annually in Central and South America.

The volume each year rises in magnitude. Of this great business our country should enjoy at least three-fifths.

I may be permitted on this point to repeat the observations I made in the final report.

Without the frequent and certain appearance of the flag of our country in the waters of these states there can be no strong international ties. "Out of sight, out of mind," is as certain of nations as of individuals. The ships of a country carry its sovereignty, its name, and its character to the ports of the world. "Intimate international relations" suggests association, an interchange of friendly offices, frequent communication, negotiation, intercourse. A friendship with an ocean ever rolling between the friends is a cold thing. The allies we seek in the western hemisphere, except Chili, are almost wholly without a mercantile marine.

If we would impress them with the value of our friendship, lead them to look to us for sympathy in time of need, invite them to repose confidence in our sincerity for their welfare as nations, we must devise some way of frequent and easy communication. Isolation on our part will increase indifference. There is scarcely a maritime country of Europe whose flag on war ships, steam and wind driven craft, is not better known in the waters of South America and along the Spanish Main than is that of our country. And yet there is no flag so welcome there as ours.

Our special reports have shown with what earnestness the people of the Republics we have visited in South America pressed upon us the necessity of establishing American steamship lines to increase trade, and to a willingness of those Republics to contribute to their establishment. We shall not be called upon to furnish all the money necessary to enable the projected lines to compete with European merchantmen; for so desirous are those countries for regular and frequet steamship intercourse with us that we can rely upon their material aid to promote it. We believe that the adjustment and perfecting of the common enterprise between all the parties to the measure would of itself beget confidence and better acquaintance.

A business enterprise promoted by the different countries would draw to it the patronage of the people of these lands. Patriotism would aid in diverting trade to the new lines, and just as railroads sweeping over State boundaries in our country have tended to the unification of the people of all the States, so would these messengers of commerce promote better acquaintance with the good qualities of each among all the rest, and thereby foster nearer national as well as commercial ties.

The concurrent testimony of all whom we have consulted, holding positions of influence or information, and the results of our own observation in every port we visited, demonstrate the futility of our efforts to promote trade in the desired direction, so long as freight and passage rates tell so heavily against us, and so heavily in favor of our European competitors.

There is no reason to imagine we can regain the trade we once held in South America, or capture that now possessed by foreign nations, unless we adopt the same measures those countries employed to take that commerce from us and to keep it and its increase. We append to this report the answers to our inquiry sent to the several legations in Europe as to the amount paid by other countries to promote and maintain steamship lines to the South American States. They show by what agencies the great volume of commerce of that continent is made to roll to European ports, and prove how useless will be our efforts to turn it unless we use means of equal significance and potency.

I find the following in the Missouri Republican, of Saint Louis, of the 2d instant:

Important meeting.—The board of directors and transportation committee met yesterday and adopted the following resolutions:

Resolved, That in the interest of the trade between the Mississippi Valley and the Central and South American States we recommend that direct mail communication be encouraged between the United States and those countries through the port of New Orleans, and that for the promotion of this object we urge upon our Congressmen, with those representing the other States in the Mississippi Valley, that Congress make liberal appropriation to subsidize any steamship line that will establish communication between New Orleans and the countries named.

Resolved, That a copy of these resolutions be forwarded to the various exchanges in the Mississippi Valley, and the Congressmen representing the same, urging their hearty co-operation in this movement.

No one can question the value to our country of the recommendations made by the Saint Louis Board of Trade, and most emphatically is this true of the agricultural and manufactured products of that wide expanse comprehended in the Mississippi Valley. The course of trade in this vast region towards the ports of our neighbors is illustrated in the way hams manufactured in the Western packing houses find that market. They are shipped to New York, thence to some English port; there they are stripped of their American wrapping and brands, rewrapped and branded as of English make, and then shipped to some South American port, where they bring fifty cents per pound.

Direct communication from New Orleans with the markets of the Spanish Main and of the South Atlantic coast, and thence to those of the South Pacific, would add large value to everything the great valley sends to those places. Flour, lumber, agricultural machinery, oils, provisions, and other articles directly affecting the welfare of the farmer and manufacturer, would find a higher and better market were the resolutions of the Saint Louis Board of Trade adopted by Congress.

INTERNATIONAL QUARANTINE.

But this stimulated service would fail of its best results if it was not supplemented by a far better and less vexatious system of quarantine both at New Orleans and the ports above mentioned than now exists.

On this point I refer to that part of the address before the Commission at New Orleans of Maj. B. F. Hilder, found on page 377 of the report of the Commission, at the second session of the Forty-eighth Congress, Ex. Doc. 526, and also to the still more exhaustive and most interesting paper of Dr. Joseph Holt, president of the Louisiana board of health, found at page 382 and following pages of the same document; also to the views of the Commission on the subject, found at page 431, together with the statement of Doctor Burgess, of Havana, on this question, found on page 433.

It will be seen that unless some such system as that outlined by Dr. Holt can be adopted through international co-operation an almost insuperable barrier is erected against continuous steam communication between the entrepôt of the great river and the ports southerly therefrom. More or less yellow fever exists the year around in the ports of the Carribean Sea, those of the South Atlantic as low down as Rio de Janeiro, and those of the South Pacific to Callao.

Dr. Holt suggests a feasible way to preserve perfect sanitation of the exposed ship, and so obviate, save in very exceptional cases, any serious detention of it when it reaches its destined port.

ADDITIONAL TOPICS.

I venture to suggest to the chairman that to the topics already proposed for consideration by his bill he add one covering—

The best methods of sanitating ships and cargoes going from infected ports, and of reducing the time of quarantine detentions.

And (I may as well here respond to the chairman's invitation to name topics for consideration other than those mentioned in his bill) the following: To the fifth proposition add, "and for the extradition of criminals."

To-day a refugee from justice, a Boston embezzler or forger, under an assumed name, publishes an American newspaper at Buenos Ayres—

No wonder his presence in that city neither gives respect nor welcome to the character of American citizenship.

It might be well to ask the delegates to bring certain information as to the feasibility or advisability of effecting an all railroad connection between all the nations; of carrying the steel highway from Mexico south until it meets the one being pushed north by the Argentine Republic through the Gran Chalco and into the almost unvisited regions of Eastern Bolivia and Western Brazil.

Again, I would add a general invitation to each country represented in the congress to present such different or more specific propositions than those mentioned as it felt inclined.

VALUE OF UNIFORMITY IN CUSTOMS, LAWS, MONEY, WEIGHTS, AND MEASURES.

The propositions of the bill in the second, fourth, fifth, and sixth subdivisions, if carried into general use, would facilitate trade between the nations, and in fact tend to an almost entire exclusion of European states from all such branches of commerce as could be carried on without them.

This unity of coin value, of weights and measures, and the uniformity of law touching exports and imports, would inevitably stimulate and enhance business ventures of all kinds between the states governed thereby. The reflections upon the effect of such uniformity are so obvious that they readily come to mind the moment the general proposition is named. In addition to those that lie upon the surface, it may be stated that out of this uniformity would come on our part a closer study of the wants of the people whose trade we seek; the manufacturer would, through branch houses and agents well versed in the language and habits of those countries, know what patterns, widths, lengths, styles, and character of goods his customers require.

The doleful cry of faulty packing and reckless disregard of orders would not be heard. Bills of lading and invoices would utter a language familiar to all. The vexations of the custom-house would disappear. The measure of value would no longer be the shilling of the English, the mark of the German, or the franc of the French, but it would be the dollar of the western hemisphere.

Many difficulties and many years possibly stand in the way of this desired end. But great organizations of capital and labor fill the land with their gigantic forms. Why should not the same idea inform and guide the policies, international and commercial, of the American nations?

The call for this congress will meet a cordial response from the best men of those countries. Such statesmen as ex-President Sarmiento, the father of the educational system of the Argentine Republic, Chancellor George Huennos, speaker of the House of Representatives of Chili, and the head of the National University at Santiago, and many more who might be named, will see in this international conference auguries of good, and good only, for the struggling republics of Central and South America.

LETTER

OF

THOMAS C. REYNOLDS,

PRESENTING

His views on Senate bill 1616 "*to promote the political progress and commercial prosperity of the American nations.*"

SAINT LOUIS, MO., *April* 7, 1886.

SIR: Responding to the invitation with which, on behalf of the Senate Committee on Foreign Relations, you have honored me, I respectfully present my views on your Senate bill 1616 to promote the political progress and commercial prosperity of the American nations.

Each and all of the seven objects set forth in the second section of your bill are so clearly wise and statesmanlike, that comment on them is superfluous. I therefore confine myself to making some suggestions concerning the modes in which, and the extent to which, those objects can be attained.

The meeting at Washington of a congress of delegates from all the independent nations of our hemisphere, for the consideration of those objects, will present peculiar advantages. Prepared for, by our regular diplomatic and consular officials, it would present opportunities for the officials of our Government to be brought into direct communication with delegates specially selected for the purposes of the congress, and those delegates would be in like communication with our officials, and with each other.

The roundabout way of communication by the regular diplomatic representatives of the Governments, or by a commission from our own, having constantly to report home for orders, would be avoided. A free interchange of opinions would lead in a very short time to practical conclusions, which it would require years to reach by the regular diplomatic methods.

It should be distinctly understood, and perhaps be in some way indicated in your bill, that the consent of all the Governments invited to the congress will not be indispensable. Power should be given to the President to convoke it, should only some of the Governments invited send delegates to it. Diplomatic correspondence, and information heretofore, would indicate that many of those states would, for various reasons, decline the invitation. The countries south of the equator might find it best to form a customs union of their own. Should only the Governments of the Republics bordering on the Caribbean Sea and Gulf of Mexico—our American Mediterranean—unite in the congress, it should meet without awaiting the action of the other states. A cus-

oms union of the latter, south of the equator, would finally gravitate o a like connection with our own part of the hemisphere, as South Germany did towards the customs union of North Germany.

On the general subject of the congress, as well as in regard to the objects specified in the seven clauses of the second section of your bill, the rise and progress of the German customs union (*zollverein*) is practically instructive. I have no authorities to which I can refer, and must rely on my remembrance of observation and information during several years' sojourn at German universities, at a period when that union was in the course of development. It was composed at first of the Prussian dominions and a few minor contiguous states. As its advantages became evident, other states joined it, under the influence not only of those advantages, but also of retaliatory tariffs against them by the union, and special favors offered to them by it. South Germany long held back, and my recollection is that its states first formed a customs union of their own. The Hanseatic seaports (independent sovereignties) hesitated still longer. Indeed, I have an impression that the great commercial city of Hamburg is not yet completely included in the union. Sixty years or more have passed in bringing the union up to its present extent and importance. The causes or pretexts of the reluctance to join it were mainly difference in tariffs, fear of injury to protected industries, and (to a formidable extent in bureaucratic governments) the opposition of employés to a system which, as they believed, would economize by abolishing their places.

Similar causes may lessen the number of Governments which will accept the invitation to the congress or unite upon plans to effect the objects mentioned in the bill; but even should only a few be represented in the congress here, as in Germany, it will be the first step which costs, and afterwards like obstacles will be removed by like means. Should even but one state be willing to unite with us in carrying out any of the objects mentioned in your bill, a beginning will have been secured, and, as in Germany, the adhesion of all the others to a complete commercial and customs union will be a question of time—probably of less than half a century.

Taking by clauses the first section of your bill, I deferentially make these suggestions.

CLAUSE FIRST.

While a general assent may be expected to measures that shall tend to preserve the peace and promote the prosperity of the several Republics and the Empire of Brazil, the exact definition of those to preserve the present integrity and territorial conditions of each as they exist against forcible dismemberment, will meet with serious obstacles. Several Spanish-American States still have treaties mutually guaranteeing each others territories; but they are not observed by any of them. Several, probably most, of the Spanish-American republics, and Brazil have questions of boundary to settle, and to do so, existing territorial conditions of occupancy might have to be changed. To become a party to such questions, even by general or vague declarations, might lead the United States into entangling engagements. Possibly these objects of this clause of your bill could be united with that mentioned in section 7: "an agreement upon, and recommendation for adoption to their respective Governments of a definite plan of arbitration of all questions, disputes, and differences that may now or hereafter exist between them." As to forcible dismemberment by any European power, the position of the United States is too well understood, and satisfactory to the other

American Governments, to need any agreement in the proposed Congress.

CLAUSE SECOND.

The final crowning result which the other objects of your bill would be contributory to, or even accompany, will be the formation of the American Customs Union proposed in this clause, "Under which the trade of the American nations shall, so far as is possible and profitable, be confined to American waters, and there shall be a free interchange of the natural and peculiar manufactured products of each. I assume that the interchange is to be of all products of each, as our commerce with the countries south of us will always naturally consist, to a very great extent, of our manufactures in exchange for the products of their fields, forests, and mines.

On the details of such a customs union, the honest collection and equitable distribution of the revenues from it, the measures for preventing smuggling, the proper consideration of existing vested interests, the necessary navigation laws defining the origin and ownership of vessels to which the trade is to be confined, and many other important matters, I do not propose to write. But it may not be superfluous to make some observations on what may be necessary to prepare for a customs union, and which in fact, to a limited extent, is such a union itself, viz, a reciprocity treaty.

Among the means to secure more intimate commercial relations between the United States and the several countries of Central and South America, suggested in the first report of the Commission to those states (transmitted by the President to Congress on February 13, 1885, and printed as Ex. Doc. No. 226), were the following (p. 4): "Commercial treaties with actual and equivalent reciprocal concessions in tariff duties." As the words "actual and equivalent" were adopted at my suggestion, an explanation of their full force may not be superfluous. A stipulation in a treaty that certain products of one country shall be admitted free, or at a reduced duty, into another country, may, on paper, appear to offer a reciprocal concession for a like admission of certain other products of the latter country into the former. But the seeming effect of it may be neutralized in various ways, so that it will be, to the one country or the other, not an actual concession. Chief among those ways are, the existence of treaties with other nations, placing them on the footing of the "most favored nation," export duties, home bounties, drawbacks, monopolies, and municipal or other local taxation. The skill of the diplomatist, aided by information from consuls, merchants, shippers, and other experts in the questions, should be exerted to frame the treaty so as to prevent the defeat of its real object by such collateral disadvantages and burdens. To explain them, or point out modes of removing them, severally, would unduly extend the length of this letter.

But one of them, the "most favored nation clause," deserves special consideration. It is understood that Great Britain, Germany, and probably other countries, claim that a reciprocity treaty with the United States by a Spanish American country applies to them, under that clause in their treaties with the last-mentioned country, with the same effect as if their names had been in the treaty instead of or along with that of the United States. For example, should the United States, resuming import duties on coffee, grant to Brazil freedom from them, on the "reciprocal concession" that flour and certain American manufactures should be admitted free into that Empire, Great Britain, which consumes very little cof-

fee of any kind, and probably none from Brazil, would claim the same freedom for her like manufactures. Thus, in return for our being customers of Brazil, in coffee, to the amount of about $50,000,000 annually, Great Britain, offering no "equivalent" concession in fact, would still be able to drive (or, rather, keep) us out of the Brazilian market for those manufactures which she can supply more cheaply or with greater facility through her lines of steamers.

After much thought on the subject, I have found no surer mode of making reciprocity "equivalent" than by expressing in the treaty itself, and as a condition of it, the real object of every reciprocity treaty, the actual and equivalent increase of the commerce between the parties to it. For illustration, should the United States make a reciprocity treaty with Spain for certain concessions designed to increase our exports to Cuba, in consideration of a reduction of our duties on Cuban sugars, the treaty should provide that that reduction should exist only as long as Cuba imported from the United States at least a certain fixed amount in value annually, and Spain might justly require a like condition as to the annual amount of our imports of Cuban sugars. The custom-house returns of the two countries would readily fix the respective amounts, and the reciprocity of the treaty, whenever it ceased to be actual and equivalent, could be suspended by a proclamation of the President, on due notice to be provided for in the treaty.

As it is undeniable, and even generally admitted, that the "most favored nation clause" entitles a country having the privilege of it to be merely "on all fours" with any other nation, and share the advantages of it only on the identical conditions accompanying them, such a proviso as that above mentioned would effectually block the diplomatic game which Germany is understood to have played upon us in Mexico, by claiming for herself the benefits of our recent reciprocity treaty with that Republic. Taking, in fact, no sugar and little tobacco or anything else from Mexico, she sagaciously offers to remit her duties on them, and claims for her exports to that Republic, mainly in manufactures, the same concessions it made to the United States in order to increase the exports of its own products to our country. With such a proviso as that above suggested, Germany would be beaten on her own diplomatic ground. Mexico would be obligated by the "most favored nation clause" only to offer to Germany the same treaty, *mutatis mutandis*, her name taking the place of that of the United States. As her imports from Mexico would not compare with ours, such a treaty would give her no actual advantage over us. So, also, with Cuba in her commerce with Germany, and probably, also, with Great Britain and France. No one of those countries (France and Germany making their own beet-root sugar, and Great Britain being supplied principally by her own colonies) would be able to take from Cuba the amount of sugars which would be the treaty "equivalent" for the concessions made to the United States.

Another important consideration in deciding what kind of a reciprocity treaty to make, or whether to make it at all, is the effect it would have on some equally advantageous indirect trade. By driving out of some South American market some other country which trades with us, we may diminish the purchasing power of that country in our own markets, and increased indirect trade with the former may not compensate with us for a loss of trade with the latter. In this connection, the effect of several misused terms is to be deprecated. Generally when our imports from and exports to any particular country do not balance at all, the very bad English is common of speaking of a "balance of trade" for or

against us. It is refreshing to notice that in the reports of our Bureau of Statistics that improper phrase is discarded, and the difference between exports and imports is described as an excess of one over the other. An excess of imports over exports in a particular venture may represent a gain and not a loss. A familiar illustration is that of a Boston ship which, in former times, would take a cargo belonging to the ship's owner, worth, say, $100,000, to China, and return with one, also belonging to the same owner, worth twice the amount. The difference, being the returns for the expenses of the voyage, the profit in China on the original venture, and that in Boston on the return cargo, would be all gain. The same may be the case with the entire commerce of one country with another, as could be amply shown from the statistics of British trade with Asia, given in Mr. Frelinghuysen's letter on the "Commerce of the World." Of course, in some other special case it might be otherwise.

Another very general error is to treat an excess of imports over exports in our trade with a particular country as a difference which we pay in cash. This is rarely, if ever, the case. It is usually paid in exchange on some other country, obtained by selling to it our own products. Brazil affords a very fair illustration. We take from that Empire directly products many millions in value in excess of what we send directly to it. That excess is paid for by exchange on London, based on our exports of provisions, cotton, &c., and with that exchange the Brazilian pays for English manufactures to be sent to Rio. The indirect trade may be different. The Englishman may sell his manufactures in Brazil, convert the proceeds directly, or indirectly by purchase of exchange, into coffee, with the proceeds of which in New York he purchases provisions to be sent to England. In either case the result is the same. England gains some profit in exchange, as London is the world's money center, and in freights which her ships carry. But to the extent to which England is crippled in her sales to Brazil, her purchasing power in our provision markets may be diminished.

Therefore, before making a reciprocity treaty, we should carefully consider, in each particular case, whether, even with the profits in exchange and shipping in a direct trade, we may not be losing a more profitable commerce in a different direction, by diminishing the power of others of our regular customers to purchase products from us.

CLAUSE THIRD.

"The establishment of regular and frequent lines of direct steamship communication between the ports of the United States and the ports of Central and South America," is unquestionably indispensable for the promotion of a direct trade between those ports. But to discuss the modes of securing that communication would unduly lengthen this letter; and besides to do so would be entirely superfluous, as every aspect of the subject has been fully presented in the statements of merchants and shippers, which accompany the reports of the Commission to Central and South America. Whether encouragement to a direct trade be given by liberal mail contracts, direct subsidies, differential import and tonnage duties, bounties on ship-building, as in France, or even by a return to the navigation laws by which Cromwell transferred England's foreign carrying trade from Holland to herself, and which substantially constituted our own earlier legislation on the subject, two points seem to me clear. Equity would suggest that our citizens on the sea-board are as fully entitled to the expenditure of Government money

over and above the receipts from postage, in encouraging foreign trade and intercourse, as our interior settlements are to similar expenditures to facilitate their correspondence with other parts of our own country. The benefits of the former expenditure would indirectly accrue to those settlements, as the latter does to our sea-board. In selecting lines for such expenditures, preference should be given to those which afford us the advantages of proximity and the existence of an already established commerce by sailing vessels or transient steamers. The histories of the American regular steamship line between New York and Venezuela, and that connecting the Isthmus of Panama and New York and San Francisco, are very instructive; they have succeeded in building up direct American trade, and almost excluding competition in it from foreign steamers, even from "tramps."

CLAUSE FOURTH.

The establishment of a uniform system of custom regulations in each of the independent American States to govern the importation and exportation of merchandise, a uniform method of determining the classification and valuation of such merchandise in the ports of each country, and a uniform system of invoices.

These are of great importance and even in a customs union would have to be considered; but they will be the most difficult to effect, until after public sentiment shall have been fully prepared, in Spanish-America and Brazil, for a customs union. Habits, customs, and regulations in such matters are so fixed by usages, probably of centuries, in the various countries of our hemisphere, including our own, that not only revenue officials, but even the merchants themselves could with difficulty be brought to see the advantages of entire uniformity. Both those classes habitually prefer even a cumbrous routine with which they are familiar to a new one which they will have to learn. Each country would advocate the uniformity which consists in having its own system adopted by all other countries. The more artificial the system might be, the more earnestly would those trained in it insist on its advantages, in the same impulse of human nature that made common law pleaders object to the beauty and simplicity of civil law procedure.

Yet, as with the reform of our own laws, much may be done by skillful diplomacy, aided by our merchants, shippers, and their agents, both in our own country and in the rest of our hemisphere, towards a partial if not complete uniformity. Tariffs could be reformed by leading the other Governments (and possibly also our own) to see that the revenue will not be affected, and frauds will probably be diminished by simplifying the classification of merchandise—as, for instance, placing under a few general heads the four or five hundred articles, often but slightly different from each other, specified in most, perhaps all, of the Spanish-American tariffs. Arbitrary fines could be abolished, customs regulations be gradually improved, the classification and valuation of merchandise, even under the existing systems, be simplified and made explicit, and especially the modes of redress for wrongs made more liberal, prompt, and inexpensive than they now generally are in Spanish-American countries.

SECTION FIFTH.

The adoption of a uniform system of weights and measures, and uniform laws to protect the persons and property, the patent rights, copyrights, and trade-marks of either country in the other.

Several Spanish-American states have already enacted laws of the kind above described, or embodied them in treaties with European

powers. An industrious diplomacy would doubtless secure like advantages to the United States. The question of uniformity of weights and measures presents greater practical difficulties. The Latin race Governments of America have shown a decided tendency to adopt the French metric system, and although, as the experience of France herself suggests, the reception of a new system by a people is of very slow growth, yet that metric system, on account of its intrinsic merits and advantages has such a hold upon those Governments, and scientific men in those countries, that probably such a uniformity could be obtained only by our adopting that system, at least in our commercial intercourse with them. There could be no reason for their exchanging their own popular weights and measures, of Spanish *varas*, *leguas*, *libras*, *arrobas*, &c., for our equally unscientific feet, yards, miles, pounds, bushels, &c. Perhaps a practical solution of the question, at least for a long time, in invoices and other commercial documents, could be found in fixing, by treaty or otherwise, the precise equivalents, in our weights and measures, of the old Spanish, as well as of those in the metric system. The uniformity would thus become, in practice, simply a matter of arithmetical computation—as is now the case in the construction of railways in Mexico, by converting miles into *kilometros*.

CLAUSE SIXTH.

"The adoption of a common silver coin, which shall be issued by each Government in such an amount proportionate to the population of each as may be determined upon, the same to be legal-tender in all commercial transactions between the citizens of all the nations of the American hemisphere," presents much more formidable difficulties than any of the other propositions in your bill. To explain them, some account of the currencies of Spanish-America, succinct, but aiming to avoid obscurity, may be useful.

Although some of the Spanish-American states have, theoretically, gold coin, yet, in fact, silver coin is alone in circulation, and, what is more important, is the sole measure of value. Practically they are as much under the silver monometallic system as India or China. From some cause the silver coin known as the *peso sencillo* or "simple dollar," to distinguish it from the old Spanish milled dollar, *beso duro* or "hard dollar," is the basis of all their coinages under the names of *bolivar*, *boliviano*, *sol duro*, &c. I conjecture that this "simple dollar," of the same weight and fineness as the French five-franc piece, arose from the preponderance in Spanish coins of the *peseta*, which was once so current in the United States under the name of "pistareen." The Spanish milled dollar was legally divided into eighths, called *reals*; the *peseta* was, for the purpose of making small change, coined as of the intrinsic value of a real and a half, and the convenience of a decimal system asserting itself even under such unfavorable circumstances, 5 *pesetas*, although only of the value of $7\frac{1}{2}$ reals, became the current measure of value, instead of the dollar of 8 reals. In Spain the *peseta* itself has been adopted, both in commerce and in Government accounts, as the unit of coinage, and I assume it to be of the weight and fineness of the French and Belgian franc, the Greek drachma, the Italian lira, and the Venezuela bolivar, as the Director of our Mint gives to each of them the value of $19\frac{3}{10}$ cents. His valuations of other Spanish-American coins show that, except in Mexico, the peseta or franc is the actual unit of coinage.

With the extensive commerce of those states with France, Belgium, Spain, and Italy, and their intimate connection in habits and ideas with their European kindred of the Latin race, it may be expected that they will adhere with great tenacity to the "common coin" they already have. It would seem that we could do best by either adopting that common coin, for commercial transactions between us and them, or by inventing a new silver coin of a fixed weight and fineness, and representing a permanent value, not in an artificial ratio of value to gold, but in their own measure of value, and as a commodity, or as bullion.

It so happens that our own coins of less denomination than a dollar correspond exactly, or very nearly so, in weight and fineness, with the Spanish-American silver coin, two of our half dollars being equal in intrinsic value to the "simple dollar." There is no good reason why they should not circulate in Spanish America as at par with like weights of parts of the "simple dollar." It has been said that they formerly did so, but that the act of Congress securing their convertibility into our intrinsically much more valuable silver dollars (these also being of legal tender) caused them all to be sent home again. They are now rarely to be seen in any Spanish-American country.

To agree upon an amount of the common silver coin proportioned to the population of each country also presents difficulties, as the amount of circulation needed by each country would not be at all in proportion to population, even if that could be accurately ascertained under the defective census system in Spanish America, and probably not even in proportion to wealth and resources, which would probably have to be only estimated. Such considerations doubtless influenced the Latin Union to refuse admission of Venezuela into it, even after she had adopted the same silver coinage, and theoretically became also a bimetallic country. But should such a limitation be desirable, some other basis could be agreed on; possibly a proportion to the total amount of each country's average imports and exports, in a certain series of years, would be safe and acceptable.

The other mode above suggested would be to agree upon a new common coin, with a specific name, say a florin, to be of the fineness of our own silver coin, and to weigh precisely half an ounce. It would have the advantage of being both a coin, and representing an ascertained amount of silver, as merchandise or bullion.

With either of these common coins as measures of value the commerce of the several countries could be carried on, the coinage of each country being legal tender, not for any other kind of money or coins of any other metals or even for silver coins of other denominations, but solely in fulfillment of contracts made specifically in the common coin, as our gold bonds are made payable only in gold coin.

But, of course, here we encounter the immense difficulty that while the Spanish-American countries use silver alone, both for coinage and as a measure of value, we use both silver and gold, and attempt to get and keep a measure of value by fixing, through statutes, a ratio of value between the two metals. To discuss a mode of establishing such a ratio between our bimetallic coinage and the silver monometallism of Spanish America, would unavoidably lead into the mazes of the silver question in our own country. I abstain from entering into them, except by expressing the opinion I have held ever since I examined the subject many years ago (but in which I may be alone), that the whole attempt has been and will continue to be a conspicuous failure, and should be abandoned. Contracts could be made in either gold or silver coins, of fixed weights and fineness, according to the intents of the contracting

parties, and the ratio of value between the two metals—which even in our own time has varied so much that to keep up the semblance of it we first debased our gold coins, and afterwards our silver—could be left to be determined by the immutable laws of even a slowly-variable supply and demand, rather than to the dangerous expedient of statutory or treaty regulations, changeable at the will of Governments which may be in necessity or influenced by false theories, or even corrupt. For the convenience of the construction of contracts, a measure of value in either silver or gold could be established by law to define the unit of value in legal tender in contracts in which the metal or coin had not been specified. Under a system by which values were measured in greenback dollars, although at a discount below both gold and silver, and contracts in coin had to be exceptionally so stated, our commerce flourished. The difference in commercial or intrinsic value between the two currencies would be a mere matter of computation; the variances would be so gradual as to be scarcely perceptible, except in the lapse of an entire year, and the computations of them, to ascertain value in the one coin or in the other, would be no more difficult or injurious to commerce than like computations of rates of exchange.

But, as our own people are so accustomed to fixed rates of value between gold and silver coins, and to their being in certain fixed proportions legal tenders for each other—an expedient about as logical and sensible as a statute determining what weight of Indian corn shall be a legal tender for a bushel of wheat, both being in this country, and only one of them in Great Britain, current as food for man—a practical view of a common silver coin for the American hemisphere should take into consideration our existing bimetallism, with its disturbing adjunct of a statutory ratio of value which may or may not accord with that fixed by commerce in the metals themselves.

With due diffidence, I suggest that our present half dollar, and the subdivisions of it, might be advantageously adopted as the common silver coin, as it is identical, in weight and fineness, with the measure of value, and existing coinage, of all Spanish America except Mexico. The privilege to convert them, under our statute, into silver dollars, would have to be abolished, but their present limited legal tender qualities could be preserved. With like legal-tender qualities, at par with like silver coins of Spanish-American countries, they would freely circulate in those countries, as did Spanish and Mexican coins in our own country in the early part of this century. There would be little return of them, as the limited amount to which they would be legal tender here would be amply supplied by our own mints. The same limited legal-tender quality in our country could be extended without danger to the like coinage of South American countries joining in the agreement; little of it would come to us to compete with our own, and we would reap the advantage that our own would be legal tender, as the proper measure of values, in all commercial transactions in those countries. Brazil, having now merely a depreciated paper currency, might be readily induced to introduce it into her mints; and a change in the coins of Mexico could be as readily made as a like change was in Spain, her present dollar, where contracts call for it, being decreed to be the fair equivalent of 5⅓ of the South American franc (one-fifth of the simple dollar). Under such an agreement for a common silver coin, the coinage of it could safely be left free, supply and demand regulating its commercial ratio of value to gold coin. The legal-tender qualities of those coins would be on no unequal or unfair basis. They would have in each country the legal tender extent given

to like coins of that country—limited with us as our own, unlimited in Spanish America as their own.

The adoption of a common coin, of the weight of half an ounce of silver, would encounter the difficulties that it would disturb commerce by giving a new measure of value, and the convenience of computing its value by weight might cause it to degenerate into being treated as mere bullion. Nevertheless, could it obtain extensive adoption in commerce as a measure of value, that convenience would increase its utility. Transactions in it could be reduced to gold, or any other currency, by examining the quotations of the market value of silver in gold or in such other currency.

The proposition to adopt a common silver coin of the value of our gold dollar, if coupled with the quality of being legal-tender for the latter, seems to me impracticable and illusory, for the simple reason that, should the present value in silver of the gold dollar be adopted, any fluctuation in the comparative values of these metals would affect it. Should gold continue to rise in those comparative values, the silver dollars of South American mints, being of less value than gold dollars, would have a tendency to flood our markets and increase the confusion into which we have already got, by using two measures of value and attempting to force a ratio between them. Should gold fall in comparative commercial value, there would be a strong temptation to exchange gold coins for the Spanish-American common coins, to pass into our circulation and unduly expand it, or even be sold as bullion. If the common coin is to be the measure of value, and legal tender only in transactions in such coins, and not as equivalent in any fixed ratio for other money or gold, the already established "simple dollar" presents advantages over every other silver coin.

The existence of our bimetallic coinage and artificial ratio of value between gold and silver naturally suggests the question, how are values of merchandise to be computed for the collection of duties where the invoices give amounts in "simple dollars"? The answer is readily found; the value of the new coinage, in our currency, can be annually ascertained by the Director of the Mint, and proclaimed by the Secretary of the Treasury, as is now done with the coins of all countries of silver monometalism. The merchant importer or exporter, in ascertaining the cost to him in our currency of goods bought in Spanish America, or the value there, in the common silver coin, of his wares sent thither, need concern himself little about such valuations, as both his payments and receipts will be regulated, as now, by rates of exchange. But he will have a share in adjusting those rates, instead of having them determined for him in London. Should they exceed cost of transportation, interest, and insurance, he can ship American half dollars in legal-tender payment of his purchases in South America. In like manner the South American can send his "simple dollars" to the United States, with the advantage that, instead of being treated as mere bullion, as they would be in Europe, they will have a partial advantage as legal tender, like our own subsidiary coin. The result might eventually be to transfer the exchange market of this hemisphere from London to New York. Of course, beyond the use of the common coin as legal-tender, it would, as any other silver coins, be valuable only as bullion, at the market price, in currency or gold.

The suggestion of a new silver coin, to be legal tender when a contract calls for it, and otherwise only to a limited extent, but without any fixed ratio of value to gold, or even our standard silver dollar, is so novel that the foregoing suggestions are made with diffidence. I regret

that I have not at hand information about the means by which Great Britain maintains a balance between her own gold monometalism and the silver monometalism of her vast possessions in India. But a study of those means may suggest modes of reconciling our double standard with the single silver standard of Spanish America. The attempt to do so should not be lightly abandoned; for, as President Arthur said in his last annual message to Congress, by the adoption of a common silver coin for this hemisphere, "the surplus productions of our mines and mints might be thus utilized, and a step taken towards the general remonetization of silver."

In connection with the suggestion of introducing into our domestic circulation a coin based on a measure of value different from our own bimetallic, it may be well to note that even in gold monometallic England a like plan has been considered. A special cablegram to the Saint Louis Globe-Democrat from London on the 11th ultimo states:

At the dividend meeting of the managers of the Bank of England to day the question of bimetalism was discussed, and the coinage of a silver rupee and florin currency for circulation in both India and England was suggested.

CLAUSE SEVENTH.

An agreement upon and recommendation for adoption to their respective Governments of a definite plan of arbitration of all questions, disputes, and differences that may now or hereafter exist between them.

My personal observation and knowledge of the Spanish-American people, through several years of sojourn with them, induce me to believe that most, perhaps all, of them will gladly make such an agreement, and the enlightened and able Emperor of Brazil would assuredly join in it. With the tendency of our age towards arbitration, even of private differences between employers and employed, it may be extended between Governments, literally to "all questions," including many of those covered by the second section of your bill, especially those mentioned in the fourth clause, which are the principal sources of dispute between our Government and those of the other American states. Thus this agreement, leading gradually to others, if not simultaneous with them, may become the corner-stone of the international edifice in which in time, all the nations of this hemisphere will dwell together in the peace and harmony of a great American customs union. Should the congress result in even nothing more than such an agreement it will have fully rewarded our Government for having convoked it, and richly compensate us for the hospitality to be extended to its members.

The impression exists in some quarters that, under such an agreement, our Government would have to assume the often thankless duty of being regular and perpetual arbitrator in all the quarrels of our somewhat excitable sister American communities. The exact contrary is most probable; they might, from over-sensitiveness, systematically avoid giving the United States so conspicuous a mark of leadership. They would most probably select as arbitrator in their disputes some such standing international peacemaker as the late King of the Belgians was in European differences, or some Government entirely unconnected with American interests, or the head of their religion, the Pope, or even, reverting to a former prevalent usage, some university of international reputation for erudition and integrity.

I have, perhaps at too great length, given my views on all the subjects embraced in your bill; but I have done so in the hope to indicate that, even should the proposed congress result in agreements on but few of those subjects, and by only some of the states which may send dele-

gates to it, yet such results will amply demonstrate the wisdom of having invited it. And even should it result in nothing definitive, the knowledge which each of the Governments represented in it will acquire of the views and policies of all the others, and the personal intercourse between our own representatives and those of the other countries, will lay the foundation of a cordiality between both which will be advantageously felt in our future diplomatic and commercial intercourse with the other nations of this entire hemisphere.

I have the honor to be, sir, very respectfully, your obedient servant,

THOS. C. REYNOLDS.

Hon. WILLIAM P. FRYE,
United States Senate.

ADDRESS

OF

WILLIAM E. CURTIS,

LATE COMMISSIONER FROM THE UNITED STATES TO CENTRAL AND SOUTH AMERICA,

BEFORE

The Committee on Foreign Relations, United States Senate, with reference to Senate bill 1616, "*to promote the political progress and commercial prosperity of the American nations,*" *March* 27, 1886.

South of the Rio Grande and the Gulf of Mexico, in what is known as Spanish America, are about 48,000,000 of people, engaged in a foreign commerce amounting to over $800,000,000 a year. This commerce is about equally divided between exports and imports. The exports consist exclusively of raw products, and always will; while the imports consist of manufactured merchandise. The Spanish-American people have no taste for mechanical industry, and lack the water-power or the fuel to exercise it if they had. They will always be compelled to import all the luxuries and nearly all of the necessaries of life except food, and their wealth must come from the boundless resources with which a prodigal nature has stored the continents.

In 1884 our exports were valued at $733,768,764, mostly manufactured merchandise. Of this amount we exported but $64,719,000 to Spanish America. Our annual mechanical and agricultural products are valued at $15,000,000,000, but we seldom have sold more than $75,000,000 worth of this product to our nearest neighbors, who buy in Europe many times as much as they ever get here.

We have more trade with either Belgium, Italy, The Netherlands, Spain, Switzerland, Russia, China, Japan, Australia than we have with all of the Central American States combined. We have nearly as much trade with Greece as we have with Chili. We sell more sewing-machines in Switzerland than we sell in Chili, and Switzerland sells Chili more sewing-machines than she buys of us.

England, France, and Germany have secured a monopoly of the trade of Spanish America, by the establishment of quick, regular, and cheap transportation, and we have lost it by neglect. For example, Bolivia has a foreign trade of over $16,000,000 a year, yet the name of that country does not appear in the tables of our Bureau of Statistics. The chief imports of Bolivia are cotton and woolen goods, agricultural implements, mining machinery, hardware, cutlery, clocks, watches, canned goods, and provisions, a list which could be filled in any commercial city of the United States as cheaply as in Europe, and yet the annual

reports of the Treasury Department do not show a dollar's worth of commerce between the United States and that country.

The same conditions exist with other nations in quite as startling a form.

In 1884 the value of manufactured merchandise imported into the several countries of Central and South America was as follows:

Central America:		
Mexico	$30,000,000	
Guatemala	3,500,000	
Honduras	750,000	
Salvador	2,750,000	
Nicaragua	3,250,000	
Costa Rica	2,800,000	
British Honduras	1,250,000	
		$44,300,000
South America:		
French Guiana	1,500,000	
Dutch Guiana	1,700,000	
British Guiana	10,800,000	
Venezuela	16,000,000	
Colombia	13,700,000	
Ecuador	4,375,000	
Bolivia	4,500,000	
Chili	52,600,000	
Peru	7,600,000	
Argentine Republic	84,900,000	
Uruguay	26,000,000	
Paraguay	1,300,000	
Brazil	101,000,000	
		325,975,000
West Indies		117,113,000
Grand total		487,388,000

The figures showing the distribution of these imports for 1884 cannot yet be obtained, but the exports of the United States, France, and Great Britain to the countries named below in 1883 were as follows:

Countries.	United States.	Great Britain.	France.
Central America	$2,003,407	$4,186,893	$1,392,113
Colombia	6,868,971	6,009,414	5,984,352
Venezuela	2,403,705	3,126,123	1,324,465
Brazil	9,252,094	34,140,119	15,657,473
Uruguay	1,452,812	9,683,712	5,111,211
Argentine Republic	3,543,196	30,695,963	24,956,691
Chili	2,860,496	21,318,312	9,655,555
Peru	493,894	4,811,600	1,760,670
Total	28,878,625	113,972,136	65,843,533

The increase of the imports from Great Britain into the Argentine Republic in 1884 was very large, and reached a total of $38,000,000. There was a corresponding increase in most of the other countries.

The following shows the exports from England, France, and the United States to Mexico, Central and South America, the Spanish West Indies, Hayti, and San Domingo of cotton goods, iron and steel, machines and implements, and hardware and cutlery, the goods in which we excel:

Articles.	England.	France.	United States.
Cotton manufactures	$45,738,000	$6,215,000	$4,563,000
Iron and steel	11,090,000	3,339,000	2,810,000
Machinery, engines, &c	8,022,000	1,157,000	6,820,000
Hardware and cutlery	3,505,000	114,000	1,254,000
Total principal articles	68,355,000	10,825,000	15,447,000

Our total exports to Mexico are greater than those of either England or France, while our total exports to South America are less than one-fourth of those of England, and only one-half of those of France.

During the last twenty years the value of the exports from the United States to the Spanish Americans was $442,048,975, and during that time we purchased of them raw products to the amount of $1,185,828,579, showing an excess of imports during the twenty years amounting to $765,992,219, which was paid in cash. It will thus be seen that our commerce with Central and South America has left a very large balance on the wrong side of the ledger, while those countries have all the time been buying in Europe the very merchandise we have for sale. Being the very reverse of the United States in climate and resources, they constitute our natural commercial allies, and the exchange should at least be even; but they sell their raw products here and buy their manufactured articles in Europe. The principal reason for this is that the carrying trade is in the hands of Englishmen. The statistics show, that, of the total imports into the United States from Spanish America, which, in 1884, amounted to $159,000,000, three-fourths were carried in foreign vessels. Of our exports to those countries, amounting last year to $64,000,000, $46,000,000 were carried in American vessels, while only $18,000,000 were carried by foreign vessels. It will thus be seen that nearly everything we buy is brought to us from Spanish America by Englishmen, while nearly everything we sell we have to carry there ourselves. The logic of these facts is irresistible.

The most absurd spectacle in the commercial world is the trade we carry on with Brazil. We buy nearly all her raw products, while she spends the money we pay for them in England and France.

In 1884 of the exports of Brazil $50,266,000 went to the United States, $29,000,000 to England, and $24,000,000 to France. Of the imports of Brazil in 1884, $35,000,000 came from England, $15,000,000 from France, and $8,000,000 from the United States.

Another peculiar feature of this commerce was that of the exports of Brazil to the United States $32,000,000 was carried in English vessels and $9,000,000 in American vessels, while of her imports from the United States $6,000,000 was carried in American vessels and only $2,000,000 in English vessels. The trade is carried on by triangular voyages. Two lines of steamships sailing under the British flag load every week at Rio for New York. Arriving at the latter port they place their cargoes of coffee and hides in the hands of commission merchants, and sail for Europe, where they draw against these consignments, and buy Manchester cotton, Birmingham hardware, and other goods which they carry to Brazil. During the last twenty years this absurd spectacle has cost the United States $600,000,000, every cent of which has gone into the pockets of English and French manufacturers. We have not only paid for the goods that England has sold Brazil, but as we have had no banking connections with that country and no ships on the sea, nearly every ton of this commerce has paid a tax to English bankers and vessel owners.

Several years ago when we removed the import tax on coffee, Brazil put an export duty on, so that the attempt of Congress to secure a cheap breakfast for the workingman simply resulted in diverting several million dollars from the Treasury of the United States into the treasury of Brazil, without changing the price of the article. Mexico and the countries washed by the Caribbean Sea produce a better quality of coffee than is grown in Brazil, and if the United States Government would *consent* to discriminate against Brazilian coffee, raised by slave labor

the nations of Central America and the Spanish Main would reciprocate by admitting free to their ports our flour, lumber, provision, lard, dairy products, kerosene, and other articles which are now kept from the common people by an almost prohibitory tariff.

Brazil is in such a critical condition, financially and commercially, that if we did not buy her coffee it would rot on the trees, and the Englishmen who control her foreign commerce would have to close their warehouses and throw all the Brazilian planters into the bankrupt court. These Englishmen have secured mortgages upon the plantations of Brazil by supplying the planters with merchandise on credit and taking the crop at the end of the season in payment; but as the crop seldom pays the advances, the mortgages have been lapping over upon the plantations, until now the Englishmen have the Brazilians by the throat, making their own terms, charging one profit on the merchandise sold, another as interest on the advances, a third on the coffee purchased, and a fourth as interest on payments deferred, while they make three profits out of us: first, on coffee they sell us; second, on transportation charges; third, in discounting our bills on London.

The greater part of our exports to Spanish America go to Mexico and the West Indies. Deducting these from the total, it will be found that we buy over 30 per cent. of what the South American countries have for sale, and furnish them only 6 per cent. of their imports. The balance of trade goes on piling up at the rate of nearly $100,000,000 a year. This was not always so. Twenty years ago more than half the commerce of this hemisphere was controlled by the merchants of New York, Boston, and Baltimore, and more than half the ships in its harbors sailed from those ports. Now only a small percentage of the carrying trade is done in American bottoms, while English ship-owners who control the transportation facilities permit the Spanish-American merchants to buy in this country only such goods as they cannot obtain elsewhere.

The cause of this astonishing phenomenon is our neglect to furnish the ways and means of commerce. We can no more prevent trade following facilities for communication than we can repeal the law of gravity. While we have been pointing with pride at our internal development, England and France have been stealing our markets away from us. The problem of recovering them is easy of solution. The States of Central and South America will buy what we have to sell if intelligent measures are used to cultivate the markets and means are provided for the delivery of the goods.

The Spanish-American nations seek political intimacy with the United States, and look to this, the mother of republics, for example and encouragement. They recognize and assert the superiority of our products. They offer and pay subsidies to our ships. Brazil now pays $100,000 a year as a subsidy to an American steamship line, while the United States Government paid only $4,000 last year to the same line for carrying our mails. The Argentine Republic had a law upon its statute books representing a standing offer of a subsidy of 96,000 silver dollars a year to any company that will establish a steamship line between Buenos Ayres and New York, under the American flag, and at the same time has twenty-one lines of steamships, sailing from forty-five to sixty vessels a month, between Buenos Ayres and the ports of Europe, to which it pays nothing. We have no steamship communication with the Argentine Republic whatever. During the last year, out of the millions of tons of shipping represented in the harbor of that metropolis, there were no steamers from the United States, and our

lag was seen upon but 2 per cent. of the sailing vessels. Here is nation purchasing in Europe $70,000,000 worth of merchandise eve year, and only spending about $4,000,000 in the United States, a these $4,000,000 represent articles, such as petroleum, lumber, lard a other pork products, which could not elsewhere be obtained.

Thomas W. Howard, United States vice-consul at Uruguay, stated t the Commission that the carrying trade between that country and Europe was done by 567 steamers, of which 203 were English, 118 French, 107 German, 48 Italian, and 14 Spanish, with not one under the American flag; and he said that no steamers ever came from the United States to Uruguay, except occasionally an English tramp, chartered for a special cargo. The foreign commerce of Uruguay amounts to $45,000,000 a year, of which over $20,000,000 are imports of manufactured merchandise. The chief imports are wearing-apparel, iron and steel goods, agricultural implements, and machinery. England furnishes 27 per cent., France 17 per cent., Germany 13 per cent., Spain 10 per cent., Italy 6 per cent., and the United States only 5 per cent.

The Spanish Americans erect statues to Washington and Lincoln, and imitate the United States in all their political and economical endeavors. Their republics are founded upon constitutions in imitation of that our fathers framed. They have introduced our school system and they import teachers from the United States.

Even more surprising than our neglect of the commercial opportunities they offer is our ignorance of their condition and progress. We recollect their civilization as we saw it last, to be an anarchy of errors. We do not realize that the triumph of liberal intelligence and the influx of modern enterprise have opened to the nations of South and Central America a destiny second only in promise to our own. While it would be useless to seek in those republics an ideal of self-government, their progress in the last half century has placed them in a situation where their political reform is not only hopeful but assured.

The development of the southern half of South America is nearly rapid as that of the United States. Immigration is flooding in, int nal improvements are opening new and fertile fields, and wealth is creasing in a ratio enjoyed by no other section of the globe.

Chili, Uruguay, Paraguay, and the Argentine Republic, almo *terra incognita* to us, are booming like our Western Territories. In 1 the imports of the Argentine Republic were valued at $36,000, in 1884 they had reached $80,000,000. In 1876 the merchandise bro to that country from England, France, and Germany was valued at $18,000,000, while in 1884 it was more than $53,000,000. The e imports from the United States for twenty years were $6,000,000 than those from the three commercial nations of Europe for the 1884.

Within the last three months the Government of the Argenti public has made contracts for $59,000,000 worth of railway im ments, including a line of road northward into Bolivia, and tw across the continent to Chili, so as to bring the commerce of the Slope into the harbor of Buenos Ayres, instead of taking it aro Straits of Magellan.

In 1874 the foreign commerce of Chili amounted to $42,000, 1884 it reached $132,000,000. From $50,000,000 to $60,000,00 chandise is imported into Chili every year, of which England f over $20,000,000, France over $12,000,000, Germany over $8,000, the United States $3,000,000.

Adding the imports of Brazil to those of Uruguay, Chili,

Argentine Republic, it will be found that the aggregate value of manufactured products introduced into those four countries annually reaches the enormous sum of $250,000,000, of which England furnishes nearly one-half, France about $50,000,000, Germany about $35,000,000, and the United States about $17,000,000.

We have no adequate conception of the present magnitude of these markets, nor of their prospective value. The manufacturers of the United States can supply almost every article represented in that $250,000,000, with the exception of a few articles of luxury which we ourselves import. The consumption of cotton goods alone amounts annually to over $65,000,000, and 95 per cent. is supplied by the mills of Manchester.

Cotton fabrics now and always will constitute the wearing apparel of three-fourths of the people, and they must be imported. England monopolizes this trade because her mills furnish an article especially adapted to the wants and tastes of the consumers, which our looms have never attempted to produce. The assertion that we cannot compete with Manchester prices is absurd. The only reason we are undersold is that we send an honest fabric to compete with a dishonest one; but as long as the English manufacturers send cargoes of pipe-clay and starch to the tropical countries our exporters must furnish the same article or be undersold. There is a grim humor in the fact that the popularity of our cotton goods is so great that nearly every bale of this bogus fabric shipped from Manchester to the South American nations bears the coat of arms of the United States, and is marked "Best American drillings, Mass., U. S. A."

There is not a commercial city in Spanish America where the manufacturers of the United States cannot compete with their European rivals in every article we produce for export. The report of the South American Commission shows, by the testimony of the importing merchants of those countries, that aside from the difference in the cost and convenience of transportation it is to their advantage to buy in the United States, because the quality of our products is superior, and our prices are usually as low as those of Europe.

But as long as the freight from Liverpool, Hamburg, and Bordeaux is $15 a ton, they cannot be induced to pay $40 a ton to bring merchandise from the United States.

The control of the transportation facilities being in the hands of European merchants, assisted by liberal subsidies from Governments that encourage them in seeking trade, there is a natural and effective discrimination against freights from this country, and is usually cheaper to ship goods from New York via Hamburg to the South American countries than to send them direct.

The bill which Mr. Frye has introduced contemplates an assemblage of delegates from these Spanish-American nations at Washington for the purpose of considering measures to bring them into closer political and commercial relations with the United States.

Under instructions from the late Secretary of State, Mr. Frelinghuysen, the South American Commission submitted to each of the Governments it visited a series of propositions covering the suggestions contained in this bill, and, with the exception of Chili, each of the Governments visited promptly and cordially accepted the propositions made. The Commission was not instructed to conclude conventions of any character, but was directed to initiate a movement this bill is designed to promote. The Government of Chili declined to enter into any compact whatever with the United States, by treaty or otherwise. The

propositions were submitted to the President of that Republic, in the presence of his entire cabinet, and discussed at length, but the only one that Government was inclined to accept was that relating to the establishment of a common silver coin. This suggestion they very cordially approved, and its importance was enlarged upon by the President of Chili and his minister of finance.

The proposition to hold a congress of American nations was not declined by Chili, but taken under advisement, the Government reserving the right to accept or decline an invitation to such a congress when the United States was prepared to submit a plan in detail, defining its scope, the subjects to be considered, and the extent of the powers intrusted to the delegates.

Even if the contemplated congress should fail to reach any conclusions upon the subjects proposed for it by Congress, a visit by the leading men of the Spanish-American nations to the United States will be productive of great good.

The report of the South American Commission upon this subject says:

The attainment of closer international and commercial relations between our country and these Republics is easily accomplished. Our reports have frequently called attention to the feeling of admiration with which the progress, wealth, and power of our land are regarded by the other countries of the western hemisphere. They one and all find in our history a model for their own institutions, and our moral support and approbation are prized above those of any and all other nations. Hence our advances toward a more perfect understanding and greater confidence will meet with a quick and true response. There will be no prejudices to overcome, no antipathies to remove, few differences of constitutional life to adjust. The result of our observations leads us to believe that these Republics have felt that our country heretofore has given them too little thought; that in its greatness and introspection it has failed to take a warm interest in the trials and struggles of peoples who are striving to realize for their own countries something of the peace and prosperity that belong to what they always term "*La Grande Republica.*" Unless we have been completely misled by the expressions and protestations of the ruling powers of each and every one of the Governments we have visited, the only estrangement possible between them and us will flow from our own indifference and neglect. Indeed, we have already lost much that naturally belongs to us from this cause. Every President and cabinet officer, every leading and thoughtful citizen we met joined in the sentiment of gratified surprise that our country had taken the initiative by this embassy in bringing about more cordial and hearty communication between the various Republics and our own. In our effort to reach more intimate relations we have, then, this basis of kindness and desire upon the part of those we seek to reach as a foundation for our action. We shall plant seed in a genial soil, beneath a propitious sky.

To the foregoing considerations we may add the beneficial influence of the proposed convention of representatives of the states of the western hemisphere. Our several reports show with what warmth the suggestion has been welcomed by nearly every country we visited. It is cordially indorsed by all save Chili, which only gave a qualified assent.

The general opinions of the Governments visited point to the propriety of this country's issuing the call for the convention, fixing time, place, membership, and also suggesting in the invitation a list of topics for discussion, at the same time conceding to every State represented the right to bring forward such other subjects affecting the welfare of all as it may deem best.

Not only should the call and programme emanate from our Government, but the assembly should convene in the United States under its hospitable welcome and direction. The details we do not enter upon, though we may be permitted the quite obvious reflection that the range of topics should be so varied that in some one or more of them each State should feel a particular interest, and the general scope of all tend to the prosperity and common good of all. We can well believe that the discussion of these topics which pertain to the common weal would be followed in each State with profound interest, the conclusions reached, especially if found with much unanimity, of great practical good, and the general result of a joint deliberation of the several people on questions of moment to each would inevitably weave into firmer fabric the warp and woof of the threads of friendship and interest and communication reaching from one to all the rest. Neither need we point out the value to our country in many ways of filling the position of a generous host, welcoming to our homes and estates guests whose good opinion we desire to win by sincere courtesy

and a just revelation of our noble national character. To this end the representatives should enjoy extended opportunities to become familiar with the marvelous economies, politics, industry, education, and religion out of which our greatness has sprung. No limited or contracted parsimony should bound our efforts to exhibit in fair colors the magnitude and glory of that temple of freedom in which we worship. Every section of our land would reveal to their eyes, in language stronger than words, the wealth, progress, and happiness that attend a people whose institutions are founded on equality, where the poorest and weakest citizen has his wrongs redressed and his rights protected equally with the strongest and most wealthy. From such a survey they would carry home deeper respect for a country whose religion, unaided by the civil power, builds shrines in every neighborhood where the humblest may kneel and adore according to his conscience, where education rains down on every rank of life manifold blessings, and where obedience to the expressed will of the majority is deemed a sacred duty.

In such a convention could be discussed, as was suggested by some of the States consulted, the plan of agreeing upon a common silver coin which should be current among all the States of the American continent at its face value. This proposition has been favorably entertained by all the Governments advised with as one which would add value to the silver product and prove a potent factor in promoting commerce between the countries adhering to it.

The States of Central and South America stand ready to respond heartily to our call for such a convention, and once held it would prove doubtless the forerunner of many more whose influence would be puissant in promoting more intimate relations both international and commercial.

The reports of the Commission show that the suggestions for a common currency was favorably received by all the Governments visited, including Chili. All the Spanish-American countries are now under a system of silver monometallism.

There is no gold to be seen; silver is not only the current coin, but the legal tender everywhere. These countries have paper money, but its value is regulated by the silver coin that prevails in each; they do not even coin their own production of gold.

The report of the Director of the Mint for 1884 shows that the entire product of gold in Spanish America for the three years previous was $25,000,000, of which only $1,500,000 was coined.

From the same report it is shown that for the three years the product of silver in Central and South America, including Mexico, was $143,000,000, of which $84,000,000 was coined, and of this total Mexico produced over $86,000,000, and coined $73,000,000. Deducting from the total the product and coinage of Mexico, we find that the total product of silver in Central and South America for three years was only $57,000,000, or about $19,000,000 a year, while the total coinage for three years was only $11,000,000, or less than $4,000,000 a year.

Bolivia is the next largest producer of silver. Deducting the product and coinage of Bolivia for three years, we find that the remaining nations of Central and South America produced only $19,000,000 in silver during the three years, and coined only six millions of this product, or about $2,000,000 a year. The balance of the product is shipped to Europe in ore.

Chili, Colombia, Bolivia, Peru, and Venezuela are the only nations producing silver to any amount.

From the report of the Director of the Mint it is shown that the total circulation of paper money, gold coin, and silver coin in Spanish America, and including Mexico, is $340,000,000, of which $243,000,000 is paper money, and Brazil issues about three-fifths of the latter amount. For the details of the financial situation in the Spanish-American countries, I would refer to the report of Mr. Reynolds, of the South American Commission, who has given special attention to that subject.

The balance of trade against the United States with these countries

of Central and South America amounts annually to nearly $100,000,000. This balance is paid in bills of exchange on London, the proceeds of which are expended there in the purchase of merchandise which our markets could supply at as low figures and in as good quality as that of Europe. It was remarked nearly everywhere that English merchants of whom the South American importers were buying their goods might not accept such a coin in payment, and the reply invariably was that in such an event they would come to the United States to buy their goods. All commercial transactions in these countries now are calculated in pounds, shillings, and pence, the local currency never entering into foreign commercial transactions.

In every one of these nations, with the exception of Chili, the proposition for a reciprocity treaty was also heartily received. We admit free of duty into our ports the products of a people who have prohibited ours from entering theirs. Duties that are almost prohibitory are placed upon flour, petroleum, provisions, lumber, and other articles imported from the United States, so that they are placed beyond the reach of the masses of the Spanish-American people. Human transactions are usually based upon reciprocity, but have never entered into our commerce with Spanish America.

Our Government might have received concessions for the admission of our peculiar products free, or at a reduced rate of duty, had we been enterprising enough to enter negotiations in that direction. Almost everywhere the South American Commission found a willingness on the part of the Governments it visited to enter into commercial treaties whereby our peculiar products might be relieved from the almost prohibitory taxation, without any further concessions upon our part beyond giving the pledge not to impose duties where they do not now exist. As an illustration: the little Government of Costa Rica proposed to remove the duty from cattle, salt, preserved meats, mineral, coal, raw cotton, timber for building purposes, brick, tile, lime, and agricultural and mining machinery, which they buy in the United States, provided the articles they produce, such as sugar, coffee, cocoa, and other articles which they send us are placed upon our free list. The sugar exported from Costa Rica last year was valued at only $278, so that there need be no fear of injuring our sugar interest by making the concessions they desire. The only articles which we now import from South America under a duty are sugar and wool, and almost the only wool we import is the coarse variety used in the manufacture of carpets, which is not produced in the United States.

All our carpet wools come from Chili, Uruguay, and the Argentine Republic; most of our sugar comes from Cuba. The production of sugar in all the South American countries would not be sufficient to supply one-fourth of the demand in the United States, if we should take all that is raised there. As a matter of fact none comes now. The South American Republics cannot compete with the slave labor of Cuba, and never will; but if their product were admitted free of duty they would give us in exchange valuable concessions that would enable our farmers and manufacturers to find a market for their surplus.

With the exception of petroleum, nearly all of our exports to Central and South America come from the Southern States and the Northwest, and consist of breadstuffs, provisions, lumber, furniture, &c. Flour is so expensive that none but the rich can use it, the price often being as high as $25 a barrel, two-thirds of this cost representing the import duty. If the duty upon flour were removed in all the South American countries the exports from the United States would be very

largely increased, and the removal of that duty could be obtained by an exchange in favor of sugar, while the almost prohibitory duty upon lumber, provisions, and other goods would be given in exchange for the removal of the duty on carpet wools. Petroleum is a very important item in the commerce of South America. Gas is scarce and high, owing to the lack of fuel, and almost the entire population burn candles. Petroleum put on board a ship at 15 cents a gallon in New York is peddled out in the South American cities in pint bottles at 25 cents each, or 40 cents for a quart bottle, the light of a single lamp for an evening costing at least a quarter of a dollar, which, of course, prohibits its use by the common people.

Three-fourths of this price represents the duty, as it is the practice of the South American Governments to tax the necessaries of life and admit the luxuries free. As an illustration: A certain Government which charges a duty of 400 per cent. ad valorem on our kerosene oil admits watches, jewelry, and diamonds at a duty of 90 cents a pound.

Still more important is some arrangement with the South American nations for a uniform system of customs regulations. Their present system was inherited from the old Spanish tyrants, and an importer is fined for failing to cross a *t* or dot an *i*; for a misspelled word, or an erasure of any kind in his invoice.

The customs officials receive compensation from the fines and penalties which they impose, and are therefore constantly tempted to injustice. This is a greater embarrassment to merchants of the United States than to those of other nations, because the English, the German, and the French have agencies and branch houses in nearly every one of the South American ports. These agents are constantly associating with the customs officials, keep them good natured by means of their own, and are able in case an error is detected to settle it without any considerable loss, while a manufacturer or merchant of the United States who is a stranger to the customs officials and who has no friends to watch his interests in the ports to which his goods go, is constantly subjected to the most harassing and disastrous fines and penalties. I could relate hundreds of instances that came to my attention, in which the customs officials of South American ports were induced by English agents to drive American merchants out of trade by imposing upon them fines and penalties for the most trivial mistakes in their invoices, and other reasons. For example: The captain of a ship who entered a South American harbor with a cargo of goods, for the first time, was fined $250 for neglecting to salute the captain of the port when he came on board his vessel. It was afterwards discovered that this was done at the instance of the captain of an English tramp steamer, who had been running between that port and New York, and had failed to get the cargo which the American skipper carried.

The merchants of New York, as is shown in the reports of the South American Commission, find that there is no profit in a trade where they are compelled to submit to such whims of officials and the jealousies of rival merchants. By a proper system of treaty the United States could induce the South American nations to adopt a uniform s· stem of rules regulating the appraisement and classification of goods which would obviate all the difficulties described.

There have been two attempts to hold an international congress of American nations. In 1825, during the administration of John Quincy Adams, General Bolivar, who was then President of the United States of Colombia, invited the several American nations to join in a congress to be held at Panama in June, 1826.

President Adams accepted the invitation, and nominated Richard C. Anderson and John Sargent as delegates on the part of the United States, and William B. Rochester as secretary to the mission. The message containing the nominations was referred to the Committee of Foreign Relations of the Senate, by whom a report was made on the 16th of June, 1826, condemning the mission, and concluding with a resolution declaring it inexpedient for the United States to join the proposed congress.

The report was rejected by the Senate, and on the 14th of March, 1826, the recommendations of the President were adopted by a vote of 24 to 19. On the 21st of April the House of Representatives, by a vote of 133 to 61, passed a bill making appropriations for the mission.

Orders were transmitted to Mr. Anderson, who was then minister to Colombia, to attend the congress, but, on his way to Panama, he died of a malignant fever. His colleague, Mr. Sargent, found it impossible to attend the congress, and thus the United States was not represented.

The congress was held, however, on June 22, 1826, and continued in session until July, concluding a treaty of friendship with all the American powers who had been invited to join.

The congress adjourned to meet in February, 1827, at Tacubaya, a suburb of the city of Mexico. Mr. Poinsett, United States minister to Mexico, was appointed commissioner to this congress in place of Mr. Anderson (deceased), and Mr. Sargent, his colleague, went to Mexico, but the congress did not assemble, owing to disturbing revolutions in nearly all the countries invited to join.

In 1881, as will be remembered, Mr. Blaine sent invitations to the Spanish nations to meet the United States in a similar congress, and they were generally accepted, but, subsequent to the retirement of Mr. Blaine from the Cabinet, the enterprise was abandoned, to be renewed by Mr. Frelinghuysen, his successor in office, through the South American Commission, as has been related.

The following table shows the value of the imports into the United States for the year ending June 30, 1885, which were subject to duty, from the Central and South American states:

Country.	Sugar.	Wool.	Copper.	Miscellaneous.
Central American States	$254,094			$5,048
Brazil	6,834,103	$102,557		*190,446
Colombia	1,151			4,743
Venezuela	3,398		$33,014	5,281
Argentine Republic		999,291		*173,445
Uruguay		411,188		6,340
Chili		170,542		34,556
Peru				15,258
Total	7,092,946	1,683,528	33,014	455,117

*Mostly linseed and flaxseed.

Grand total, $9,264,305. Sugar imported from Cuba, $48,467,371; from Porto Rico, $6,189,639.

The following tables show the value of merchandise imported into the several independent States of Central and South America, and the share of the United States in that trade:

Country.	From all countries.	From the United States.
Argentine Republic	$84, 000, 000	$4, 327, 026
Brazil	100, 000, 000	7, 258, 085
Central American States	14, 000, 000	2, 667, 943
Chili	52, 000, 000	2, 192, 672
Peru	7, 600, 000	716, 001
United States of Colombia	13, 700, 000	5, 397, 412
Uruguay	26, 000, 000	1, 601, 759
Venezuela	16, 000, 000	2, 992, 968
All other countries	10, 500, 000	425, 563
Total	323, 800, 000	27, 589, 429

The following is a statement showing the value of the trade between the several ports of the United States and the several states of Central and South America, for the year ending June 30, 1885:

ARGENTINE REPUBLIC.

Ports.	Imports.	Domestic exports.	Foreign exports.
Apalachicola	$33	$23, 250	.....
Boston	3, 134, 515	16, 648	$37, 494
Brunswick, Ga	.....	259, 940	.....
Delaware, Del	.....	36, 504	.....
Fernandina	.....	27, 710	.....
Mobile	.....	7, 590	.....
New Orleans	.....	.....	.....
New York	1, 096, 129	3, 199, 377	96, 744
Pensacola	132	165, 856	...
Philadelphia	97, 684	323, 711	9, 215
Portland	.....	188, 603	206, 022
Puget Sound	.....	6, 121	.....
Savannah	.....	65, 916	.....
Saint Mary's, Ga	.....	6, 606	.....
Willamette, Oreg	17	200	.....
Total	4, 328, 510	4, 327, 026	349, 475

BRAZIL.

Ports.	Imports.	Domestic exports.	Foreign exports.
Baltimore	$5, 264, 110	$1, 537, 061	.....
Boston	1, 521, 611	31, 017	$3, 018
Brunswick, Ga	.....	65, 973	.....
Charleston	327	.....	.....
Delaware	.....	203, 081	268
Galveston	663, 035	.....	.....
Mobile	78, 383	.....	.....
New Orleans	2, 855, 871	.....	.....
New York	33, 931, 448	3, 638, 705	56, 037
Pensacola	144	4, 312	.....
Philadelphia	366, 993	122, 683	.....
Richmond	.....	1, 247, 669	.....
Savannah	448, 360	4, 550	.....
Wilmington, N. C	.....	7, 582	.....
Yorktown	133, 148	395, 402	.....
Total	45, 263, 660	7, 258, 085	59, 259

CENTRAL AMERICAN STATES.

Apalachicola	$15	$2, 204	.....
Baltimore	50	2, 538	.....
Chicago	64	.....	.....
Key West	5, 649	50	.....
Minnesota	1, 809	.....	.....
Mobile	21, 918	15, 328	.....
New Orleans	1, 150, 474	247, 125	.....
New York	3, 030, 647	1, 604, 046	.....
Pearl River, Miss	.....	6, 842	.....
Portland	.....	14, 070	.....
San Francisco	2, 186, 424	761, 895	.....
Saint John's, Fla	11, 905	2, 559	.....
Willamette	.....	11, 291	.....
	6, 409, 015	2, 667, 943	.....

CHILI.

Ports.	Imports.	Domestic exports.	Foreign exports.
Baltimore	$49, 381		
Boston	160, 392	$600, 361	$1, 022
Charleston, S. C	29, 290		
Humboldt, Cal		11, 844	
New York	55, 189	1, 416, 619	17, 313
Philadelphia	175, 181		
Puget Sound		143, 565	
San Francisco	34, 845	20, 283	
Williamette	247		
Total	604, 525	2, 192, 672	18, 335

UNITED STATES OF COLOMBIA.

Baltimore	$58, 596	$67, 111	$1, 313
Boston	4, 066	82, 928	7, 600
Brunswick, Ga		32, 042	
Charleston, S. C		16, 962	
Delaware		83, 567	
Fernandina		4, 570	
Humboldt, Cal		19, 078	
New Orleans	243	96, 438	120
New York	2, 270, 377	4, 432, 328	142, 979
Oregon		15, 912	
Pearl River, Miss	150	77, 248	
Pensacola	177	137, 956	
Philadelphia	7, 500	15, 337	
Puget Sound		73, 904	
San Francisco	968	286, 019	33, 945
Savannah		52, 150	
Saint John's, Fla		5, 412	
Willamette		24, 126	
Wilmington, N. C		24, 904	
Total	2, 342, 077	5, 397, 412	185, 957

URUGUAY.

Baltimore	$48, 301		
Belfast, Me	66		
Boston	201, 017	$46, 606	$19, 936
Brunswick, Ga		*150, 986	
Fernandina		5, 018	
Mobile	66	6, 295	
New Orleans	13		
New York	2, 459, 684	1, 126, 905	22, 080
Passamaquoddy		43, 297	
Pensacola	123	108, 508	
Philadelphia	25, 347		
Portland		18, 791	38, 668
Puget Sound		28, 440	
Savannah		29, 611	
Saint Mary's, Ga		2, 500	
Wilmington, N. C		34, 802	
Total	2, 734, 617	1, 601, 759	80, 684

VENEZUELA.

Alexandria, Va		$5, 926	
Brunswick, Ga		10, 709	
Fernandina		3, 100	
Georgetown	$2, 100		
New London	9, 491		
New Orleans	2, 589		
New York	6, 172, 962	2, 967, 625	$50, 641
Perth Amboy		3, 625	
Philadelphia	4, 320		
Richmond, Va	7, 549		
Savannah	12, 450	1, 983	
Total	6, 309, 580	2, 992, 968	50, 641

ALL OTHER COUNTRIES IN SOUTH AMERICA.

[Ecuador, Peru, Bolivia, Paraguay.]

Ports.	Imports.	Domestic exports.	Foreign exports.
New York	$711,242	$382,679	$2,448
Oregon	.....	16,830	.....
Pensacola	.....	11,227	.....
Puget Sound	.....	12,547	.....
San Francisco	42,357	2,280	.....
	753,601	425,563	2,448

The following statement shows the commerce between the several ports of the Southern States and Central and South America, for the year ending June 30, 1885:

Ports.	Amount.	Ports.	Amount.
Apalachicola, Fla	$27,000	Galveston, Tex	$663,000
Brunswick, Ga	420,000	New Orleans, La	4,885,000
Fernandina, Fla	41,000	Yorktown, Va	529,000
Wilmington, N. C	60,000	Pearl River, Miss	85,000
Mobile, Ala	119,000	Saint Johns, Fla	20,000
Pensacola, Fla	417,000	Charleston, S. C	46,000
Savannah, Ga	616,000		
Saint Mary's, Ga	10,000	Total	9,092,000
Richmond, Va	1,254,000		

THIRTEEN PRINCIPAL EXPORTS CLASSIFIED.

Classified exports from the United States during the fiscal year 1885 to—	Breadstuffs.	Manufactured cottons.	Iron and steel manufactures.	Carriages and cars.
Central American States	$512,704	$268,847	$564,851	$89,582
Brazil	3,419,448	516,827	607,110	37,095
Colombia	301,597	269,515	726,788	165,677
Venezuela	964,961	315,343	277,108	28,594
Argentine Republic	.....	410,914	845,418	164,366
Uruguay	.....	150,300	77,611	.....
Chili	.....	613,129	378,097	82,204
Peru	.....	114,777	92,604	(*)
All others	.....	36,940	50,560	8,317
Total	5,198,730	2,696,592	3,620,147	575,835

Classified exports from the United States during the fiscal year 1885 to—	Drugs and chemicals.	Gunpowder.	Leather.	Malt liquors.
Central American States	$138,875	$128,613	$43,428	$53,645
Brazil	133,049	.....	.....	.....
Colombia	134,915	128,202	140,662	53,293
Venezuela	93,068	.....	.....	39,369
Argentine Republic	101,209	.....	.....	.....
Uruguay	26,927	.....	.....	.....
Chili	69,847	No Peru.	.....	.....
Peru	.....	.....	.....	.....
All other	17,476	.....	.....	.....
Total	715,366	256,815	184,080	151,307

THIRTEEN PRINCIPAL EXPORTS CLASSIFIED—Continued.

Classified exports from the United States during the fiscal year 1885 to—	Provisions.	Wood, lumber, and furniture.	Tobacco.	Oil and petroleum.	Agricultural implements.
Central American States	$145,949	$139,156	$29,881	$66,251	.....
Brazil	445,809	225,730	.....	868,387	.....
Colombia	648,082	1,022,831	99,674	122,607	.....
Venezuela	567,619	96,874	49,980	80,909	.....
Argentine Republic	38,425	1,112,061	100,103	396,694	$320,912
Uruguay	43,002	560,741	100,550	250,113	157,327
Chili	31,717	353,552	.....	154,806	71,965
Peru	155,379	96,994	.....	34,453	.....
All others	184,096	44,099	.....	.....	.....
Total	2,260,078	3,652,638	380,188	1,974,220	570,204

Extracts from the reports and dispatches of the Central and South American Commission.

MEXICO.

The following is an extract from the Commission's report of its conference with President Diaz:

Mr. Commissioner Thacher, thanking the President for his promptness and courtesy in granting personal interviews to the Commission, explained that the conferences were to be understood by both participants as informal and preliminary, to the end that the views of the Government of Mexico and our own might be exchanged with greater freedom upon the various topics of international importance which the Commission was instructed to present. He recited briefly the purpose of the Commission and the objects it desired to accomplish, not only in Mexico, but in Central and South America.

President Diaz replied that the Mexican Government was grateful to the United States for sending the Commission to Mexico on such a mission, and said that he sympathized deeply and sincerely with the objects it had in view. No one could recognize more fully than he the fact that close commercial relations always resulted in political sympathy and permanent peace, and it was an act to be commended by the whole hemisphere for the United States, the mother of republics, to inaugurate a movement in which not only Mexico, but all the republics of Spanish America would commend and join. The purpose of the Commission, if accomplished, would, he believed, make peace permanent among all the nations of the Western world, and bring to them a fruitful prosperity. Mexico and all the other republics had shown their faith in the political institutions of the United States by imitating its form of government, and still looked to it for encouragement and example.

He desired the Commission to assure the President of the United States and the Secretary of State of the high regard he felt for them, and of the admiration in which he and his people held their ability. He begged the Commission to say that he reciprocated the interest felt by them in the prosperity of Mexico, and accepted as his own the views expressed by Mr. Frelinghuysen upon the first page of the printed instructions, which were read to him.

Mr. Thacher then read that portion of the message of President Arthur presented to Congress at the opening of the current session, so far as it relates to Mexican affairs, as evidence of the deep interest felt by the administration in the Commission's labors; and asked the views of President Diaz and the Mexican Government on the propositions advanced by President Arthur.

General Diaz replied that he entirely reciprocated the sentiments of the President regarding the immediate renewal of the treaty of commerce, navigation, and consular rights, and was ready at any time to favorably consider it. He said he was not fully aware of the reasons why the treaty had not been renewed before, but he understood it was because of a disagreement upon some of the conditions in the navigation clauses. Señor Romero then explained at length why a renewal had not been agreed upon, and defined the position hitherto assumed by the Mexican Government.

President Diaz remarked that both Governments would doubtless have changes to suggest as to some of the details of the old treaty, but the Mexican Government was willing to consider its renewal and amplification at any time the United States might desire to open negotiations. He anticipated no difficulty in reaching a conclusion mutually satisfactory and beneficial.

Mr. Thacher said the United States felt it a duty to promote intimacy and amity between the two Governments, and should take advantage of every opportunity, and even create opportunities, to secure such intimacy by all legitimate measures. For this reason the Commission was directed to approach the Mexican Government, and to ascertain its views, aims, and needs on this subject, and to give the same ample consideration; that the United States desired to effect such intimacy as would exclude the temptation in Mexico of seeking antagonistic alliances, and at the same time avoid embarrassing engagements and guarantees. The United States realized that its moral influence and assurance of good offices to be rendered in time of need would be of great benefit to Mexico, and at the same time our Government would maintain its time-honored doctrine with respect to foreign interference in American

affairs; that in giving such assurance, and in accomplishing an international alliance most to be desired, there were two important points to be considered, to wit, a reciprocity of trade advantages and a uniform currency.

Touching the latter of these considerations, the attention of President Diaz was called to the paragraph in the lettor of Mr. Frelinghuysen to the Hon. John F. Miller, chairman of the Senate Committee of Foreign Relations, under date of March 26, 1884, in which the Secretary of State says:

"The United States are great producers of silver, and any market which can be opened for this valuable product is for our advantage. Great Britain, on the other hand, strives to disparage and exclude it as a means of exchange, for its use in this way depreciates her wealth and works to her disadvantage. The States of Central and South America are also silver producers, with interests like our own. It would therefore be of advantage, and probably practicable, to agree upon a common silver coin, equal in value, say, to our gold dollar, or to some other approximate standard, which, under proper regulation as to coinage, &c., should be current in all the countries of this continent. Thus value would be given to our silver product, and commerce with those countries would be aided."

President Diaz responded that he heartily concurred in the suggestion of the Secretary of State; that he could readily recognize the usefulness of a common coin which should pass current in all the countries of this hemisphere; that in his belief a currency of this character would facilitate commerce, and unquestionably draw together the communities possessing it. Of course the details of such an agreement must be a matter of thoughtful reflection, and he would either instruct the Mexican minister at Washington to negotiate with the Department for the establishment of such a value, and the coinage of such a dollar, or, if it were preferred, he would send a special commissioner to Washington to confer with any one the Department might select. He stated that the Commission was at liberty to inform the Governments it might visit that the assent of the Mexican Government had already been given to the proposition.

Mr. Commissioner Thacher, referring again to the recent message of President Arthur, said there was a great anxiety on the part of our Government to see the reciprocity treaty already ratified carried into effect, and that the Congress of the United States had been urged to enact the necessary legislation at once. President Diaz was asked if the Mexican Government might not soon be expected to do its part toward this end.

He replied that he was very much interested in the reciprocity treaty, and he believed it would be beneficial to both countries, but he feared that the Mexican Congress would not be able to enact the necessary legislation at the present session, which would expire in a few days. The short time remaining would be fully occupied in the consideration of business of immediate importance, including the passage of several appropriation bills and the settlement of a disputed election in one of the States of the Republic. Congress would meet again, however, in the spring, when he would recommend the immediate consideration of the subject, and had no doubt it would be promptly and favorably acted upon.

The Commission stated that although it was not prepared to conclude negotiations upon any subject, there were several suggestions it desired to make, for the purpose of obtaining the views of the Mexican Government in the event that the scope of the pending treaty should be enlarged.

President Diaz replied that he would be glad to receive any suggestions or propositions for immediate or future consideration.

Then, referring to the printed instructions, Mr. Commissioner Thacher suggested that the position of the United States in regard to reciprocity treaties was that they should produce the greatest good to the greatest number of each country, and that no concession should be made by one Government without an adequate consideration from the other. He further observed that although many products of Mexico were now admitted free into the United States, yet, except as they were protected by the existing treaties, there could be legislation in our own Congress to restore them to the list of dutiable articles; and the Mexican Government must not assume that because they were free now they would always be so. Our own legislation regarding such products would be governed largely by the tariff concessions made to the United States by the countries in which they were produced.

Mr. Thacher added that he desired to present for the future consideration of the Mexican Government the practicability of inserting in the treaty of commerce and navigation, when the same was renewed, a clause which he thought would tend to build up a merchant marine for both Republics, to the effect that the stipulated benefits should be enjoyed only when the favored productions should be carried under the flag of one of the nations engaging in the treaty. This end, he thought, might be more certainly and speedily reached if the vessels of either nation, so laden and seeking the ports of the other, were placed on the same footing as domestic vessels engaged in the coasting trade.

To this suggestion President Diaz responded, with a smile, that the advantages of such a treaty would be immediately realized by the nation which happened to have the largest merchant marine, and that it was well known that Mexican vessels were not often seen upon the sea. He was inclined to encourage any proposition that would tend to build up a shipping interest in his country, and perhaps such an arrangement might be beneficial in that direction. He was scarcely prepared, however, to discuss a subject to which he had given no attention.

Mr. Thacher replied that the idea was simply suggested as worthy of contemplation, and asked whether a proposition embracing it would be entertained by the Mexican Government when the renewal of the old treaty was undertaken.

President Diaz answered that the suggestion would not only be entertained, but that it would be regarded as one of the greatest importance. He did not wish to dismiss it longer than would be necessary to consult merchants engaged in trade and other experts as to the advantages and disadvantages which might occur from such an engagement. According to the present condition of the shipping of Mexico, the United States would enjoy very great advantages, but he was inclined to think that the measure would be received with some favor by the Mexican Government, as it would at least encourage the building of vessels and the education of seamen in the Republic. Mexico ought to have a merchant marine like that of other nations, and his administration would encourage any measure, even of temporary disadvantage, which would result ultimately in securing such a shipping trade as was to be desired. It occurred to him, however, that some of the treaties already entered into by Mexico might offer difficulties to the consummation of such an arrangement.

Thereupon the Commission discussed with the President, at length, the necessity of requiring in all treaties valuable considerations in exchange for commercial concessions. Mr. Commissioner Reynolds called the attention of the President to certain clauses in the treaty just negotiated between the United States and Spain, and argued that reciprocity should be actual, and not merely technical or illusory.

The attention of the President was next called to the necessity, in any treaty hereafter made, of sufficient guarantees of protection to American capital invested in Mexico, and the instructions of the Secretary of State on this point were quoted to him.

President Diaz responded with much earnestness that he knew of no case where American capital, legitimately invested in Mexico, had not been adequately protected by the Government. Honest men had never been interfered with, but bad men had often encountered trouble. If a citizen of the United States came to Mexico and behaved himself, he received the same protection and had no more trouble than Mexican citizens of equally good character. The laws of Mexico were ample for the protection of the persons and property of all foreigners.

His Government had many times been compelled to complain of the treatment received by Mexicans in the border States of the United States, particularly in Texas. The worst classes of the population, he said, of both countries were on the border, and at many places there was bad feeling arising out of wrongs suffered by citizens of both countries, for which neither Government was responsible, as they had been committed by men who were reckless and regardless of the rights of others. The laws of Mexico, he repeated, were adequate in every case, as he believed the laws of the United States were; and where injustice had been met with, it was not the fault of the laws, but of the manner in which they were enforced. Local prejudice and personal feeling too often, he regretted, influenced the action of local judges on both sides of the border, and while it was impossible for either Government to secure the appointment of honest and impartial courts, he had made it, and would still make it, his business to remedy any injustice that might be suffered, so far as lay in his power.

President Diaz suggested that citizens of Mexico suffering wrongs at the hands of citizens of the United States should have the privilege to submit their causes at once to the Federal courts, instead of the State courts, as they were much more likely to receive justice at the hands of the former. That privilege now existed in the Republic of Mexico, but there were often questions of jurisdiction arising between the Federal and State courts which might occasion delay and injustice.

The Commission recited complaints which it had received of detention in custody of citizens of the United States, who were accused of crime in Mexico and were unable to secure trial. It was stated that by the usual course of criminal procedure in the United States the accused was set at liberty if the prosecution was not ready for trial after a reasonable period, and that this rule applied to all persons, whatever their nationality.

The President replied that the constitution of Mexico and the laws of the Republic were, if anything, more liberal toward persons accused of crime, and the courts were usually even more speedy in disposing of charges than was the case in the United States. If any hardships were suffered they could not be traced to the laws of Mexico, as they contained the amplest provisions for appeals, and for proceedings similar to

the writ of *habeas corpus* in the United States. He was anxious that every stranger coming to Mexico should be completely protected in his rights of person and property, and it was the desire of the Mexican people to furnish perfect security, in order to encourage the investment of foreign capital in the development of the resources of the country.

The President then proceeded to recite in detail the provisions of the constitution of Mexico, and the laws in support thereof, showing the great solicitude there was to throw the most complete protection around every person, whether citizen or alien.

Mr Commissioner Thacher then quoted the instructions of the Secretary of State relating to an international congress of delegates from the several nations of the American hemisphere, and asked the views of President Diaz as to the practicability of such a congress, and his opinion as to the topics which it should consider.

To this President Diaz replied that the suggestion was an old one, and had many times been considered by the Mexican Government, which he believed had always favored it. He recited his recollection of the several attempts made in this direction, beginning with Bolivar's plan of 1824, and the attitude presented on each occasion by the several administrations in his own country, showing great familiarity with the history of the proposition. He said he had always hoped such an international congress might be some time held, as he believed great good could be accomplished, if all the American Republics would consent to send delegates to meet upon an equal footing and agree upon measures for the common welfare.

The chief object to be discussed at such a gathering would naturally be a method of arbitration by which international differences could be peacefully adjusted, and another, equally important, was to confine American trade so far as possible to American nations. The details of such matters would, of course, require long and thoughtful consideration before any nation could commit itself, and, not having given the subject his attention for some years, he was not prepared to make more than these general suggestions. The plan, however, commended itself to his best judgment.

Mr. Commissioner Thacher then submitted a statement of facts acquired by the Commission elsewhere regarding the operation of the Free Zone which has been established by the Mexican Government upon its northern frontier, and which has long been the subject of controversy between the two Governments. He argued that the existence of the Free Zone jeopardized the interests of Mexico, as well as those of the United States, and simply afforded a better opportunity for smuggling into both countries.

The President agreed with the Commission that the Free Zone was of no advantage to either country, but political reasons made it difficult to secure a repeal of the law. He gave a history of the system, and observed that the genius of the Mexican constitution was opposed to monopolies, of which this was one of the worst sort. He also described the probable results of any attempt to abolish it, and gave the Commission no ground for encouragement in this particular.

Mr. Commissioner Thacher next called the President's attention to complaints heard by the Commission in various cities it has visited, respecting obstacles in the way of increased trade with Mexico, and regretted the absence in the latter country of the bonded-warehouse system, which made it necessary for merchants importing goods to keep a larger amount of capital idle than the extent of the business warranted. If an arrangement could be made in Mexico, under which imported goods might lie in bond until a market had been found for them, the Commission thought trade would be largely extended, and the revenues of the Mexican Government correspondingly increased.

President Diaz replied that the subject was already under consideration by the Mexican Congress, and he hoped the result would be favorable. He believed in the bonded-warehouse system, had studied its operation in the United States, and thought its introduction would be of decided benefit to Mexico.

His attention was also called to the complaints of American merchants regarding the fines and penalties imposed by Mexican customs officers for what were manifestly errors in invoices, and the exactions required and embarrassments caused by incompetent or malicious inspectors. It was asserted that fines were imposed for clerical errors which often were in themselves evidence that no fraud was intended, that goods were damaged by careless inspection, and grave losses occasioned without apparent reason. It was suggested by the Commission that the Mexican Government might increase its revenues and encourage trade by more liberal tariff regulations, and affording relief to merchants who suffer from these exactions by withholding penalties except where intent to defraud is apparent.

To this President Diaz replied at length, saying that while injustice may have been done in many cases, the import duties of the Mexican Government were so heavy as to cause great temptation to smugglers, that the customs officers were compelled to be always upon the alert and vigorous in the enforcement of regulations; but he did not think merchants who honestly and intelligently attempted to comply with the law were often unjustly treated. Those who were had the right to appeal to the

treasury department or the federal courts for relief. He promised to give his early attention to the subject, however, and observed that it would be not only his duty but his pleasure to do all in his power to remove obstacles in the way of trade and facilitate commerce between the two countries.

VENEZUELA.

[Extract from the report of the Commission concerning its conferences with the Government of Venezuela.]

The Commission had two long but informal conferences with Dr. Benjamin Quenza, the minister of exterior relations, at which he discussed with great candor the several suggestions offered as favorable to the promotion of commercial and international intimacy between the two nations. He expressed what he said was the feeling of both the Government and the people of Venezuela in thanking the United States for taking the initiative towards closer relations, and appeared to favor almost every proposition that was advanced. With reference to the establishment of a common coin to be the standard of value throughout the Americas, he thought there would be great difficulty in securing the assent and co-operation of Venezuela, not because of hostility to the suggestion, but because his Government had only recently adopted the coin system of the Latin Union, and would be reluctant to change its currency again so soon. He favored every other proposition, however, and would do all in his power to secure the assent of his Government to a recriprocity treaty under which the United States should receive concessions favorable to an increase of trade, and the capital of American investors in Venezuela should be guaranteed the fullest protection. He was emphatic in advocating the policy of confining American trade so far as is possible to American waters, and resisting the encroachment of European power. He realized that his Government and people had many interests in common with our own, and was ardently in favor of an alliance between the two countries for mutual advantage. In short, there was but one point in the instructions of the Department to the Commission that did not receive his hearty indorsement, which was the establishment of a common coin, already alluded to.

The Commission subsequently met President Crespo and his entire cabinet in a formal conference, at which the several topics covered by the printed letter of instructions from the Secretary of State to the Commission were briefly submitted, and an expression of the views and policy of the Venezuelan Government invited thereupon.

The steamship communication between the United States and Venezuela is ample for the existing trade, and the owners of the line of vessels now making tri-monthly trips are prepared to increase their facilities as fast as the demand requires. The merchants are cordially disposed to purchase merchandise in our country, and the convenience of reaching New York, as well as the distance, is in our favor; the products of our manufacturing and agricultural industries are more popular than those of other nations, and the difference in prices is not sufficient to deter the buyers of Venezuela from seeking what they want in our market. But the complaint is made that our manufacturers have but in few instances attempted to introduce their goods into Venezuela, and that when orders have in many cases been sent to them from here, they have not been responded to as satisfactorily as similar orders sent to England and Germany.

The universal testimony of the merchants here is that the manufacturers of the United States fail in a great measure to comprehend the peculiar conditions of this market, or, at least, do not comply with them. It is strongly recommended, as a means of increasing trade, that intelligent and experienced agents familiar with the Spanish language be sent here to introduce goods, to make the acquaintance of the people, and to study the demands and tastes of the consumers. Wherever this has been done, a largely increased demand for American products has been the result.

COSTA RICA.

[Extract from the report of the Commission concerning its conferences with the Government of Costa Rica.]

A memorandum was submitted the day previous, containing a list of propositions the Commission desired to discuss, and this having been carefully studied by Dr. Castro, he was ready to respond promptly and with definitiveness to each one. A copy of this memoranda is transmitted herewith, marked inclosure A.

Taking up the memoranda, Minister Castro explained in detail the position and policy of the Government of Costa Rica, which was to secure as close relations, both political and commercial, with the United States as the latter Government would be willing to allow. He realized that they were weak and in their infancy, so far as the development of Costa Rica was concerned, possessed of a rich and fertile territory, but without capital or population; their desire was to secure the development of the natural resources of the country by the encouragement of immigration, and through the assistance of a wealthy and powerful people, like those of the United States, who could absorb a great portion of the products of Costa Rica, and at the same time transmit in exchange most of the merchandise the Costa Ricans could not themselves produce. This Government, he said, would meet the United States more than half way on any measure that would increase trade between the two countries, and would give our people the preference in commerce where it could be done without infringing upon their treaty obligations with other nations.

Costa Rica was willing to guarantee the amplest protection to the persons and property of citizens of the United States who desired to invest their means here and aid the development of the country.

Referring to Topic VI, Minister Castro said his Government was decidedly in favor of holding a conference of delegates from each of the American nations, where measures of common and mutual interest could be discussed. It would be eminently useful in many respects, and particularly in bringing the American nations into more cordial friendship and better commercial relations. The United States, being the oldest and most powerful of the nations, should, of course, take the lead, but the other Governments will suggest topics for consideration. He suggested, among other things, that the congress or conference should take measures to prevent wars between the American nations; that some plan be adopted by which all disputes between nations, and all international differences, should be decided and terminated by arbitration; (2) that it should prepare a code of international law for all America, and secure the protection of the citizens of one country residing in another; (3) that it should establish a uniformity of weights and measures in all American countries; (4) that it should adopt a coin of gold of equal weight and fineness to the one dollar of the United States, to be coined by each Government from the same design, but to be legal tender in commerce and in all business transactions between the citizens of the American nations, in such a manner that a dollar of the United States, of Mexico, of Costa Rica, of Colombia, of Chili, or Paraguay should be recognized always and everywhere as at the same commercial and intrinsic value; (5) to consider and agree upon other measures to facilitate and encourage commerce between the American States, and to unite them for mutual protection against the encroachments of European powers upon American territory and the interference of European authority in American affairs.

In case England should refuse to recognize the value of American coins of gold and silver, the American nations should establish a standard of their own; as in Costa Rica sixteen dollars of silver make an ounce of gold. Some such standard ought to be uniform throughout the world; but the tendency of Europe, said Dr. Castro, is to depreciate the value of silver because of its abundance in the American States, and the latter should resist this tendency by united efforts. If Europe will not recognize an equalization of the metals and a double standard of values, the American nations must find a remedy by refusing to purchase where their money is not accepted at its legal value. We cannot compel Europe to accept our ideas, but we can compel that continent to accept our money, or go elsewhere for our goods. The effect would be to confine American commerce to American waters. The condition of Costa Rica is such now that it could not carry an arrangement of this kind into effect at once, said Dr. Castro, because the outstanding coinage could not be retired, and the currency would not immediately be reduced; but the Government is decidedly in favor of the proposition and will be able to carry it out by the time the remaining nations have agreed to adopt it.

The Commission replied that the United States Government was not prepared to make any immediate change in this direction, but the topic had been proposed as one that eventually could be and should be adopted.

Referring to the other propositions in the memoranda, Minister Castro said that Costa Rica was ready at any time to enter into a commercial treaty with the United States, receiving reciprocal advantages and giving mutual concessions so far as could be made under "the favored-nation clause."

As to details, Costa Rica would declare free or reduce the duty to a nominal amount upon refined petroleum, agricultural machinery and implements, wooden houses built in the States and transported here for immediate erection, raw cotton, and other articles, so far as was possible under the present financial obligation, provided the United States Government should agree not to place duties upon coffee, hides, dyewoods, timber, cocoa, chocolate, casasmani (peanuts), maguey, rami, and other fiber

plants, and such plants as are cultivated in Costa Rica for the manufacture of textiles.

"Are you authorized to make such a treaty at once?" asked Dr. Castro.

"No," was the reply; "we are only authorized to seek the views of the Costa Rican Government as you have given them, and to learn what you will agree to, in order to report the matter to our Government for future action."

"Then," replied Dr. Castro, "it is better that I place my views in writing, in order that you may take them with you."

(A translation of this communication subsequently received is herewith transmitted for the information and future use of the Department, with the original, and marked inclosure B.)

The attention of Dr. Castro was called to the omission in his reply (verbal) of several articles mentioned in the Commission schedule of articles on which the customs duties of Costa Rica should be reduced, and he was asked if flour would be admitted free.

He replied that in consequence of the great reduction in the price of coffee the planters of Costa Rica had commenced to cultivate wheat, and they must be protected against imported flour. The same was true of wooden furniture, which was being manufactured by their own people of their own hard woods. With regard to pork and lard and salted meats, he wished further time for refl ction.

[Inclosure A.]

Memoranda of topics to be considered at an interview between the Government of Costa Rica and the Commissioners from the United States.

(1) The necessity of closer relations between Costa Rica and the United States because of the unity of their political and material interests by treaty stipulations securing mutual concessions.

(2) The United States being willing to lend its moral influence to Costa Rica in time of need, and to exercise its power to prevent European interference in American affairs.

(3) A reciprocity treaty so framed as to produce the greatest good to the greatest number in both countries; drawn so as to avoid any violation of "the favored-nation clause" in existing treaties; guaranteeing on the part of the United States that products of Costa Rica now admitted free of duty shall be continued so; and that certain products of the United States, such as coal, raw cotton, refined petroleum, wooden furniture for household or office use, agricultural implements, preserved meats and fruits, flour, the material of which coffee-bags are made, and that such articles as may hereafter be suggested, entering into the domestic economy of Costa Rica, and in common use by the people of the country, shall be admitted free or at a nominal rate of duty at her ports; such concessions, however, to apply only to merchandise produced in the United States and brought in vessels carrying the flag of that country or Costa Rica.

(4) Such treaty to guarantee the protection of the personal rights and prop rty of citizens of either country in the other.

(5) The establishment of a common silver coin, similar in value to the gold dollar of the United States, to be legal tender for all debts and in all commercial transactions between citizens of both countries and those of all the republics of the American hemisphere (to which the assent of Mexico and the approval of the minister of foreign relations of Venezuela has already been secured).

(8) The views of the Government of Costa Rica are desired as to the wisdon of holding a congress or conference of American nations for the consideration of su. topics as may be suggested and for concerted measures to protect the peace and promote the prosperity of each other, and preserve their integrity and independence against European interference and encroachments; the doctrine of the United States being that American nations are capable of determining what is best for their own interests, of settling their own differences, and should defend, encourage, and assist in the development of each other.

SAN JOSÉ, *February* 24, 1885.

NOTES.

[Bananas, coffee, hides, and rubber, the chief exports of Costa Rica, are admitted free into the United States.]

Article.	Duty per pound.	Article.	Duty per pound.
	Cents.		*Cents.*
Flour in Costa Rica	2½	Plows and harrows	1½
Coal	¾	Hoes, shovels, &c	4½
Cotton with seed	1½	Hams	3
Cotton without seed	3	Bacon	1½
Refined petroleum	6	Lard	1½
Wooden furniture	4½	Preserves and fruits	4½
When ornamented with glass or marble	9	Coffee bagging	¾

[Inclosure B.]

Reply of the minister of foreign relations of Costa Rica to the memoranda of the Commission to the Central and South American States.

[Translation.]

The undersigned, minister of foreign relations of the Republic of Costa Rica, by virtue of a conference held to-day, has the honor to make the following declarations to the Commission of the United States of America:

It is evident that between the United States of America and the Republic of Costa Rica there is a connection of political and material interests, and from day to day the mutual commerce between said countries increases. Hence proceeds the convenience of increasing their relations by means of a reciprocity treaty, and the Government of Costa Rica is desirous that one be entered into.

The same Government considers that in such treaty it should be expressly stated that it is a treaty of mutual compensation, and drawn so as to avoid violations of "the most favored nation clause," which existing treaties with other nations may contain.

It also thinks that the following two clauses should be considered the most essential:

(1) There shall be admitted free of duty in the United States sugar, coffee, cocoa, peanuts, ginger, bananas and other fruits, starch, potatoes, and other roots used for food, pita (hat straw) and other fibers, rubber and other gums, hides and dyewoods, building timber, sawed or not; provided always that said articles shall be natural or cultivated products of Costa Rica's soil, and that this be properly made to appear in every importation.

(2) In compensation for the preceding clause there shall be admitted or remain free of duty cattle of every kind, salt, preserved meats, mineral coal, petroleum, raw cotton, wooden houses, bricks, tiles made of clay, lime for building purposes, agricultural and mining machinery; provided always that said articles be products of the United States, and that this be made to appear so in due form.

The Government of Costa Rica is also willing to send a representative or representatives to a congress of all the states of the continent, whose object it shall be to establish rules of international law in America, and determine upon whatever promotes the peace and the common interests of the nations comprised in it.

JOSÉ MA CASTRO.

NATIONAL PALACE,
San José, Costa Rica, February 27, 1885.
[SEAL OF STATE.]

According to the official statistics of Costa Rica, the aggregate of her commerce during the year 1883 with the United States was $1,431,909.65 of her money, and for the same year her commerce with England was $2,188,033.53. The United States during that year sent to Costa Rica merchandise to the value of $741,079.26, and received of her products the value of $660,830.35. Of these amounts California sent to Costa Rica $116,322.66, and received from her $175,260.

Great Britain received the bulk of the coffee of the country, and this draws with it the return to Costa Rica of large quantities of manufactures which could easily be supplied by the United States.

The Commission received from the bureau of statistics of the Costa Rican Government a comparative statement showing the present relations of England and the United States in commerce with that country in merchandise which is produced in the United States in as fine quality and at a cost not greater than in Europe. In 1884 cotton goods to a value of $671,407 were imported from England, while the imports from the United States were but $102,331. Provisions to the value of $9,541 were imported from England, and $17,594 from the United States; preserved meats from England, $1,224; from the United States, $7,960; hardware, $11,269 from England, and $1,114 from the United States; agricultural implements, $4,802 from England, and $6,292 from the United States; machinery of all kinds, $72,805 from England, and $86,961 from the United States; wooden furniture, $6,535 from England, and $10,500 from the United States. Although our own country sent to Costa Rica in 1884 a greater quantity of provisions, preserved meats, agricultural implements, machinery, and furniture, the excess was very small compared with England's advantage in cotton goods and hardware, for in these seven articles she had a total trade of $777,583, while the United States had but $232,781.

EXPORTS AND IMPORTS FOR 1884.

Statement showing the value of merchandise imported into Costa Rica from Great Britain, France, Germany, and the United States during the year 1884; *also the value of products exported from Costa Rica to those countries during the same year.*

Countries.	Imports.	Exports.	Total.
Great Britain	$2,024,750 58	$1,697,605 51	$3,722,352 09
United States	943,656 83	1,320,297 55	2,263,954 38
France	319,063 39	541,307 35	860,370 74
Germany	104,982 09	441,361 40	546,343 49

These values are given in Costa Rica money, which is legally worth 12½ per cent. less than United States gold, but commercially worth 25 per cent. less.

The imports from the United States are divided as follows:

From New York, $610,108.01; from New Orleans, $173,217.06; from San Francisco, $160,331.76.

The exports to the United States are divided as follows:

To New York, $762,298.35; to New Orleans, $163,828; to San Francisco, $394,171.20.

The larger proportion of the flour used has come from California, and the entire amount from the United States, which in 1884 reached 2,644,480 pounds, valued at $158,977. From California 1,466,482 pounds were imported, valued at $87,998.92; from New York, 583,342 pounds, valued at $35,000, and from New Orleans, 594,676 pounds, valued at $35,979.

The duty upon kerosene oil is 6 cents per pound, gross weight, or about 500 per cent. of its value, so that oil which can be landed at Port Limon at a cost of about 15 cents per gallon costs $1.25 at retail in San José. Not long ago a company was formed, which asked from the Government a concession for the exclusive sale of refined petroleum, offering to pay annually into the treasury the sum of $10,000 and guarantee to furnish first-class burning fluid to the people at a retail price not greater than 85 cents per gallon, provided the duty was taken off. The Government declined the proposition, on the ground that it would be placing one of the necessaries of life in the hands of a monopoly.

There is a disposition on the part of the Government to reduce the duty on this article, which is imported exclusively from the United States, and in its negotiations with the acting president, Castro, the Commission asked that it be admitted free. Dr. Costro assented to the request, should a reciprocity treaty be agreed on between the two Governments, and named refined petroleum as one of the products of the United States which should be admitted without duty, provided the natural products of Costa Rica were permitted to remain as now upon the free list of the United States. To reduce the duty on petroleum one-half, or even two-thirds, would, in the opinion of the merchants of Costa Rica, result in an increased revenue to the Government by placing it within the reach of the poorer classes; and to make it free would secure its introduction into almost every household of this country.

The amount imported last year was only 248,894 pounds, valued at $6,884.60, while that imported in 1883 was valued at only about half as much, the exact figures not being given. All but $250 worth came from New York.

GUATEMALA.

[Extracts from the report of the Commission concerning its conferences with the Government of Guatemala.]

According to appointment, the Commission met the President and his minister of foreign relations, who assented to each and all of the propositions embraced in the memoranda (inclosed) with a readiness that was surprising, and added that many other products of the United States now imported under high duty would be placed upon the free list of Guatemala, provided our Congress would remove the duty on sugar imported from Guatemala into the United States. The amount of sugar produced here now is not much greater than that required for home consumption, but the climate and soil are admirably adapted to its cultivation, and President Barrios is anxious to encourage the industry. Nearly all the refined sugar used by the wealthier classes is that of beets, which is imported from Germany and France, and if an engagement of the kind would be entered into by the United States, it would be easy to secure here a market for the same amount of refined sugar as might be exported from Guatemala to the United States in a raw state. The question will, however, be discussed by the Commission in a report that will hereafter be made from this country.

With reference to the proposed congress of American nations, President Barrios said that he had promptly accepted the invitation extended in 1881 by our Government and regretted that the project had been abandoned. When asked what topics he would suggest for consideration at such a congress, he exclaimed eagerly, "The union of Central America." That, he said, was a matter of the utmost importance to the United States, and it only required the co-operation of our Government to accomplish it.

Reply of the Government of Guatemala to the memoranda of the Commissioners.

[Translation.]

OFFICE OF THE MINISTER OF FOREIGN RELATIONS,
Guatemala, March 25, 1885.

Mr. Secretary of the Commission of the United States of America to the Central and South American Republics:

In due time I had the honor to receive the memorandum of the points on which the Commission desired to treat with the President and myself at the conference which took place the 12th instant. Although already, in that conference, the President assured the Commission that he was in accord with all the points said memorandum contained, to comply with the desire of the Señores Ministers which you have indicated to me, I want to express again by these presents, in substance, the declaration of General Barrios.

(1) The Government of Guatemala is thoroughly convinced of the necessity of more intimate relations between the United States and it. He desires fervently that they may be established, and will do on his part whatever may tend to secure them; and is disposed with his best will to make treaties in which mutual concessions shall be secured for both countries.

(2) The Government of Guetamala accepts gladly the manifestations made to it of the desire of the United States to lend its moral influence in case of necessity to prevent European interference in American affairs, and considers that such influence and attitude will be very important and beneficial.

(3) The Government of Guatemala is disposed to arrange, and it has already taken some steps toward it, a treaty of reciprocity, drawn so as to produce the greatest possible benefit to the greatest possible number of inhabitants of both countries, according to the terms proposed in the memorandum, but without prejudice or stating in detail the articles included on both sides, but with the understanding that those articles to be received free produced by Guatemala shall be included sugar.

(4) The Government of Guatemala has no objection to sign treaties with the United States guaranteeing the protection of the individual rights and the property of each of the citizens of both countries respectively; on the contrary, it is persuaded that owing to the increase of commercial relations being effected, and to the community of material and political interests, it will be very advantageous and important to enter into them.

(5) Neither has it any objections to establishing a silver coin equivalent in value to the American gold dollar, to be coined by both Governments in the desired quantity, but having a uniform degree of fineness, to serve as legal tender for all debts and in all commercial transactions between citizens of both countries and of all the Republics of the American hemisphere.

(6) Already, before this, the Government of Guatemala has manifested in the most expressive terms the sympathy with which it embraces the idea of a general congress of the American nations to take under advisement many important points, and to dictate, with the common consent of all, measure to protect peace, promote the prosperity of all, and maintain their integrity against the intervention or advances of Europe. The Government of Guatemala would hasten with enthusiasm to that congress with the representatives desired; it is confident that in this way a true and respectable American international law could be established, under cover from all unjust pressure; and arbitration could also be established to which all the American nations should appeal for the decision of questions arising among them.

Before concluding, may I be permitted to manifest to you the desire of the President that you should take note of the satisfaction with which he would see the exercise of the powerful and decisive influence of the United States for the realization of the union of the five States of Central America into one single nation. This accomplished, the guarantees of North American citizens in Central America would be more efficacious, agriculture and industry would be signally developed, and commerce and consumption would increase in analogous proportion.

In this matter also, and by virtue of the more favorable condition in which the country would be placed, the existing treaties with the United States could be replaced by others which might contain fuller and more liberal concessions for North America, and in which, aside from increasing the articles on the free list, a reduction of duties could be agreed upon for those still on the tariff, in respect to what those articles would pay which do not originate in the United States.

I am, with distinguished consideration and esteem, your very attentive servant,

FERNANDO CRUZ.

We had given to Señor Cruz a brief statement of the points we proposed to bring before the President, so that when the interview took place he was prepared at once to state frankly his views. The conference lasted some hours, and was attended by us, with the secretary of this Commission, by President Barrios, and Señor Cruz.

We called the President's attention, first, to the termination by this Republic of the treaty of amity, commerce, and navigation that formerly existed between our country and Guatemala. He stated that the denouncement of that treaty was made, not from any desire to suspend friendly relations with us, but it was part of a general suspension of all treaties with other nations, it being the desire of Guatemala to form new treaties in which the "most-favored-nation clause" should not be inserted, and we were assured by him that in any future negotiation with this country the United States will not be embarrassed with that provision in existing treaties with other States. The President of this Republic stands ready at any time our Government may move in the matter of a general treaty, as well as a reciprocity compact, to conclude both. As long as President Barrios remains at the head of affairs here, our country may be assured of an enlightened and consistent friend, one who has by personal observation been deeply impressed with the republican ideas which sustain our remarkable growth and development, and who earnestly believes that the adoption by his own people of the same principles will work out for them the same beneficent results. We believe the conclusion of carefully considered and properly guarded treaties of amity and reciprocity with Guatemala will draw the Republics into more intimate international and commercial relations; will open more fully the markets of Central America to our people, and will aid, by the infusion of capital from our country into the many lucrative fields of investment in this land, the growth in population, wealth, and the general progress of the people; for whether the union before spoken of be at present effected or postponed, it is sure to come finally; and, as before stated, Guatemala contains a very large proportion of the people of the five republics, and any treaties she may conclude will form very persuasive precedents for the others. We desire to express our conviction of the wisdom of negotiating and concluding these conventions with Guatemala at as early a day as possible, if they, or either of them, are deemed advisable by our Government.

PROPOSED RECIPROCITY TREATY.

In discussing the question of reciprocity, President Barrios was aware of the free list of our import laws, and that it covered most of the exports of Guatemala; yet he expressed his desire to secure the permanency of that free list by a suitable reciprocity arrangement whereby our country should enjoy a much greater access to the markets of Guatemala than it does at present. He said that if such a treaty could be entered into he would gladly admit free our mineral coal, raw cotton, refined petroleum, wooden furniture, flour, agricultural implements, cured and preserved meats, fruits and vegetables, dressed lumber, wooden houses, hardware of all kinds, lime for building purposes, tiles made of clay, salt, live stock of every kind, material manufactured

or raw, for coffee sacks, provisions and lard, and such other articles (to be more specifically mentioned and agreed upon hereafter) as enter into the domestic economy of the country; the concession, however, to apply only to merchandise originating in our country and transported in vessels carrying the flag of the United States or Guatemala. For this broad concession the President desired a like concession for all the products of his country in the markets of ours.

As far as we can now remember this would not change our present law in any very essential material with the exception of sugar and tobacco. These two products are not now produced in Guatemala or any other State of Central America in any very considerable exportable quantity, and refined sugar under the proposed arrangement would come to Guatemala from our country, little or none being manufactured here. But were our markets open to the sugar of Central America, we believe there would be in a few years an immense development of the sugar interests of this country. The cane grows vigorously in the *tierra caliente*, but its saccharine properties on the eastern coast are said to be from 2 to 3 per cent. less than that which flourishes in the *tierra templada*, owing to the frequent rains of the Atlantic coast. Some of our informants think it will be many years before these fertile but frequently deluged lands will be devoted to this industry, other tropical productions being more profitable, notably bananas and cocoa, vanilla beans, and India rubber. It is safe to say that, including these hot lands, about 100,000 square miles of Central America is adapted to the production of sugar cane. The product from the new lands first brought into cultivation would for years be surprising, for many of the estates would turn off two crops annually, especially in all those parts where the numerous streams of the country could be employed for irrigation. Then, too, the cane plant in all this country is almost perennial—at least, good for ten years, and under some conditions for forty years; so that, if once such a market as our country were free to the sugar of this country, with the frequency of the crop, its enduring plants, the cheap labor of the country, and the extraordinarily rich saccharine qualities of the juice, there might be expected in a few years a production here impossible of close estimation, but it would be very great.

INTERESTS TO BE AFFECTED.

Whether the tobacco interests would be likely to augment in the same proportion, whether the country is as extensively adapted to the growing of this crop or the product as fine as is generally used in the United States, we cannot say. For some time it would not probably exceed the domestic demand, for the best cigars are imported even over a protective duty on them. Yet it is manifest that reciprocity in a treaty cannot be all on one side. If the United States is to have Central America purchase her imports almost exclusively of us, we must in turn aid this country in producing at the most remunerative prices the products most congenial and profitable for her soil and climate. If our instructions as to the desirability of reciprocity treaties are to be carried out, it follows that there cannot be an exception made of the most national and profitable article of export raised by the nation with which we seek to establish this free interchange of commerce. We cannot establish more "intimate international and commercial relations" with these States through the instrument of reciprocity treaties without making them in fact what their name implies. That such relations would follow the creation of such new bonds is very true. Whether their cost is too great is a consideration we are not instructed to determine. We only report that Guatemala, for the privilege of carrying her peculiar products to the markets of the United States, stands ready to admit free of duty into her markets the peculiar products of our fields, shops, and manufactories. Beyond doubt the consumption of cotton goods in this country, manufactured in the United States under the proposed arrangement, would at once immensely increase. Cotton fabrics largely come from English factories, and they form the chief material for the clothing of the people. An exclusive market here for these goods tends to exchange the value of our cotton fields and manufactories. The raw material and all its multiform uses would feel the impetus of such a consumption. To this is to be added the immediate increase in our exports to this country of petroleum, flour, provisions, canned goods, and grape products, and other enumerated articles, all of which would share the advantage of unrestricted trade with this country. It is to be considered whether in any light the balance of profit to our country under this arrangement would not exceed the possible detriment to the sugar interests of the United States. In any case the great cost of freight and insurance is always a factor in favor of the sugar-grower of the United States. How far all these balancing considerations are tenable and controlling can only be determined by the test of experience, and is a question for our legislative authorities to decide.

FRIENDLY ATTITUDE OF GUATEMALA.

President Barrios gave his assent as to the protection such treaties should afford to the persons and property of the subjects of either country in that of the other.

He also thought the proposition to establish a common silver coin which should be current in all the American states a valuable suggestion; the coin to be coined by each Government in such quantities as might be agreed upon and to be legal tender for all debts and in all commercial transactions between the citizens of the different states of the American hemisphere.

The proposition of a congress of all the American states for the consideration of questions affecting them all; for the adoption of measures for the permanence of peace with each other, and the preservation of the integrity of each against European interference or aggression; to devise means for the adjustment of disputes without bloodshed; and, finally, to make the different states composing the congress better acquainted with each other and their respective wants and propensities—all this met the warm approval of the President. He believed such a convention, based on the equal rights of each member, would produce harmony of action and of institutions among all the states, that against the measures and policies adopted by the congress no member would offer opposition, and that other nations would respect the policies so promulgated.

Subsequent to this lengthy interview we met the President and the different members of his cabinet frequently, and the general matters particularly mentioned above were subjects of conversation.

There is no mistaking the entire friendly attitude of this Government towards our own, and its sincere desire to be on the kindliest terms with us, both as nations and as peoples, seeking new and better markets. The President and his ministers opened to us every avenue of information in their power, as to the resources of the country, its internal improvements and economy, its institutions and commerce.

The unvarying courtesy shown us by the President and all in authority under him we desire to acknowledge in the fullest manner; no recognition of any country through her representatives could have been more ample and cordial.

The foreign commerce of Guatemala is very large in proportion to the population of the country. The value of exports varies from three to five millions annually in Guatemala dollars, according to the price of coffee, and the imports average about three millions annually.

Imports.

Years.	Amount.	Years.	Amount.
1870	$1,347,897	1880	$3,035,536
1871	2,403,503	1881	3,664,674
1872	2,269,214	1882	2,652,042
1873	1,991,830	1883	2,030,893
1874	3,054,004	1884	3,281,698
1879	2,929,461		

The revenues of the Government amount annually to about four millions and a half of dollars, being mostly derived from a tax on imports. The following statement gives the amount of goods imported from each of the countries with which Guatemala has commerce, and shows the proportion enjoyed by the United States.

Table showing the value of merchandise imported into the Republic of Guatemala from the 1st of January to the 31st of December, 1884, and the countries from which imported.

Countries.	Value.	Countries.	Value.
England	$1,735,954 87	China	$48,594 32
France	450,365 75	Belgium	29,781 25
California	291,782 50	Belize	28,937 48
Germany	170,824 35	Central America	14,569 77
New Orleans	103,548 00	United States of Colombia	10,314 05
New York	98,296 18	Chili	2,536 00
Switzerland	75,173 61		
Spain	60,387 49	Total	3,281,698 46
Italy	51,632 60		

Imported through the port of San José	$2,535,214 20
Imported through the port of Champerico	589,785 84
Imported through Livingston	156,698 42
Total	3,281,698 46

Statement showing the value in Guatemala money of merchandise imported into Guatemala during the last five years, from Great Britain, France, and the United States, respectively.

Year.	United States.	Great Britain.	France.
1880	$655, 846 69	$1, 037, 224 77	$535, 682 94
1881	439, 309 67	1, 123, 623 43	501, 236 55
1882	379, 598 15	961, 604 50	297, 469 75
1883	529, 458 15	827, 574 75	149, 687 20
1884	593, 626 98	1, 735, 954 87	450, 365 73
Total	2, 059, 739 64	5, 685, 982 32	1, 934, 442 17

It will be seen from the above statement that England sends more than three times as much merchandise to Guatemala as the United States, which, from its three ports of San Francisco, New Orleans, and New York, sent goods to the value of $593,662.68. Of this amount the greater part of the imports from New Orleans to Livingston were railway supplies brought in by the Government.

In the appendix to this report (marked inclosure C) will be found a statement giving the amount of each of many different articles imported into Guatemala during the year 1884, which shows the character of goods consumed by the people.

ARTICLES OF EXPORT.

The chief exports of Guatemala are coffee, sugar, and rubber. Formerly an immense amount of cochineal was exported, but the cheapness of aniline dyes has driven this curious product out of the market, and the cochineal plantations have given place to sugar and coffee, only a small amount being raised to supply the local demand. So late as 1872 it was an extensive article of commerce, in that year 114,000 pounds being exported, while exports of previous years reached as high as 150,000 pounds; but the adoption of other coloring materials has been so general that the value of the export last year amounted only to the sum of $406, against $9,200 in 1883, and the millions of dollars' worth which were shipped formerly.

Rubber is becoming quite an important staple in Guatemala, and its cultivation is being engaged in with great success on both the Atlantic and Pacific slopes of the Republic. The natural product can be improved by cultivation, and it is found that by regulating the yield the gum is of much better quality. Formerly it was the custom to destroy the tree entirely at the first tapping, but the rubber planter now exercises as much care in guarding his groves as the New York or New England farmer his maple-sugar bush. In 1870 there were exported from Guatemala only 1,800 pounds of rubber. In 1880 the export was 25,900 pounds; in 1881, 188,100 pounds; in 1882, 345,900 pounds; in 1883, 34[illegible],400 pounds; and in 1884, 352,000 pounds, the average value being about 75 cents per pound in Guatemala money, which is usually at a discount of from 20 to 25 per cent. as compared with United States gold.

Small quantities of indigo, mahogany, and other fine lumber, woods, sarsaparilla, and dye-woods are exported, and the bananas shipped annually from Livingston are now valued at from $20,000 to $30,000 a year, but the chief articles of export are coffee, sugar, and hides. In 1883 the value of the latter article exported reached $151,548, and in 1884 $157,775. In the appendix to this report will be found (marked inclosure D) a statement showing the value of the principal products exported in 1884.

SUGAR AND COFFEE.

Although Guatemala sugar is regarded as a superior article, and the cane grows with remarkable luxuriance here, this country has not yet come into active competition with the West India Islands with this staple in the markets of the world. The Government is, however, encouraging its cultivation, and it will eventually become the source of great wealth and profit. In 1854 the number of sugar plantations in Guatemala was 2,247, covering but 15,000 acres, yet the product amounted to 3,862,000 pounds (about 260 pounds to the acre), valued at $270,000. The product of the previous year, 1883, was nearly double that of 1884, although there seems to be no reason offered for the decrease. The exports of sugar in 1879 amounted to 134,000 pounds, in 1880 to 410,000 pounds, in 1882 to 1,374,000 pounds, in 1883 to 4,462,000 pounds, and in 1884 to 3,795,000 pounds, valued at $151,837.

The chief product and greatest source of wealth in Guatemala is coffee. The greater part of the crop goes to Europe, where, the shippers say, there is a more active demand for the best quality than in the United States. Guatemala coffee is usually sold in the market under the name of Mocha, as it resembles closely the gen-

uine Arabian berry, which is no longer produced in any quantity. The number of coffee plantations in Guatemala in 1884 was 5,431, with 60,301,213 trees, which produced a crop of 495,385,500 pounds, valued at $4,953,850, almost the entire quantity being exported. The exports of coffee have rapidly increased since 1870, when the Guatemala product first came into active demand. The annual export from 1870 to 1884 was as follows:

Year.	Pounds.	Year.	Pounds.
1870	11,322,900	1880	28,976,200
1871	11,322,900	1881	26,037,200
1872	13,913,700	1882	31,327,100
1873	15,050,600	1883	40,406,900
1874	16,158,300	1884	37,130,600
1879	25,201,600		

The value of coffee exported in 1883 was $4,848,832, and in 1884 $4,455,677, in Guatemala money, being about 11 cents per pound in Guatemala money.

Imports of merchandise into Guatemala during the year 1884.

Articles.	Value.	Articles.	Value.
Vegetable oils	$14,859 45	Machinery	$48,475 70
Whisky cognac, rum, gin, aguardiente	35,124 70	Medicines	52,952 85
Cotton thread or fabrics	1,607,362 34	Silk goods	23,738 46
Fire-arms	1,758 00	Wooden furniture	1,143 50
Boots and shoes	3,697 42	Articles of public instruction and charity	10,837 94
Cinnamon	20,845 00	Paper of all kinds	41,694 37
Carriages	2,600 00	Perfumery	5,873 65
Barley	4,386 20	Petroleum and naphtha	14,764 00
White wax	3,122 50	Pianos	10,950 00
Beer	29,856 20	Tanned hides	56,863 84
Canned goods and vermicellis	47,593 87	Fine jewelry	19,145 00
Glassware	10,725 63	Notions	24,678 26
Money	82,932 00	Watches and clocks	3,956 00
Sundries	11,375 40	Empty sacks	26,384 83
Drugs	21,462 94	Common salt	4,122 30
Sperm candles	14,798 15	Silk stuffs and threads	102,835 72
Matches	7,235 76	Saddles	946 25
Flour, 54,542 quintals	118,490 00	Hats, all kinds	23,751 68
Iron in bars, sheets, and ironware	85,852 25	Roofs, pipes, wire (barbed), carts, wagons, hose	18,462 70
Agricultural scientific instruments	2,728 80	Wheat, 38,695 quintals	60,128 51
Wool thread or fabrics	146,294 34	Railroad material	328,426 37
Printed books	12,627 50	Wine	48,697 40
Liqueurs, sweet	5,286 65		
Linen fabrics	11,743 17		
Earthenware	15,490 86	Total	3,281,698 46
Building timber	35,594 00		

Exports of products from Guatemala during the year 1884.

Articles.	Value.	Articles.	Value.
Sugar	$151,827 80	Beans	$5 20
Indigo	7,833 75	Guaco	2 16
Rice	24 90	Cattle	600 00
Balsam	198 00	Rubber	352,003 00
Bananas	30,048 15	Pictures	800 00
Coffee	4,455,677 28	Mules	1,375 00
Cochineal	406 00	Lumber	14,082 64
Hides	157,775 80	Minerals	532 00
Deer-skins	9,924 80	Lard	100 00
Manati-skins	100 00	Pineapples	320 40
Horns	226 55	Woolen clothing	9,253 50
Cacao	596 80	Sole leather	2,532 40
Cocoanuts	1,711 00	Sarsaparilla	6,323 00
Casave	9 00	Sundries	500 00
Beer	60 00		
Horses	240 00	Total	4,937,941 13
Money	32,852 00		

ECUADOR.

[Extracts from the report of the Commission concerning its conferences with the President of Ecuador.]

After expressing his pleasure at receiving the Commission and apologizing for the informality of the reception, President Caamaño explained that the chief obstacle in the way of increased commerce was the small demand in the United States for cocoa, the principal article of export of Guayaquil. Two hundred and fifty thousand quintals (25,000,000 pounds) of cocoa, valued at $3,500,000 gold, were sent from Ecuador to Europe annually, as well as large quantities of coffee and ivory nuts, while the exports to the United States consisted of a small amount of rubber and hides. The high rates of transportation to and from the United States also prevented trade from going that way, as the merchants of Ecuador naturally purchased in the markets which could be reached most cheaply, and where most of their exports were sold. The President thought trade with the United States could be very much enlarged if the two Governments would combine in giving their encouragement to the establishment of a new line of steamships to compete with the English line which now has a monopoly of the commerce on this coast. That line now receives a subsidy from the Government of Ecuador, which would not be renewed another year, but would be given to any company that would establish competition and secure lower freights.

With regard to a reduction of duties upon articles imported from the United States, the President said that the Congress of Ecuador which meets in June would enact new tariff laws and revise the customs duties. He had recommended a reduction of the duty upon refined petroleum and some other articles, but as the revenues of the Government were derived solely from this source, it was compelled to tax imports to sustain itself. The total imports of Ecuador, he said, amounted to about $10,000,000 annually, and came mostly from Europe. If the duty upon imported articles from the United States was reduced the Government would be compelled to increase it upon those imported from Europe, in order to secure the necessary revenue, which would hardly be fair, as Europe purchased most of their products. Ecuador was now negotiating a commercial treaty with Spain, where a great portion of the cocoa was sold, and concessions were to be made by both Governments, for the benefit of commerce.

A similar treaty would be made with the United States if a market could be found in the latter country for more of the products of Ecuador.

The President said there was a fine field in Ecuador for the investment of capital, and thought if American capitalists would come into his country to occupy it, trade with the United States would be largely increased. He was anxious that some American should undertake the construction of a railroad from Guayaquil to Quito, which he said would cost about $4,000,000 gold, and would be a great aid to the development of the country.

With reference to the proposed congress of American nations, he said the idea received his approval, provided the other republics would agree to send delegates, but he thought its objects should be purely commercial; otherwise jealousy among the republics might be excited. He did not think it possible to secure a union of the American nations to resist European aggressions in this hemisphere, as it would practically amount to the smaller nations acknowledging a protectorate from the United States, which was the most powerful. Chili, for example, would resist any such proposition. There might be a commercial convention for all the nations, and a political convention would naturally follow in time.

Ecuador was not much interested in the establishment of a common silver coin, to be legal tender in all the American nations, as it has no mint and no mines, but such a coin might facilitate commerce, as it would reduce exchange. He was in favor of the United States issuing such a coin, and securing its acceptance by the other republics. The theory, he said, was a good one, but it would be difficult to secure its adoption.

The President explained to us that the Government had no official record of the amounts of the annual imports of Ecuador; the only port of the state is Guayaquil, and that the authorities were just now beginning to gather the statistics for the purpose of showing the whole commerce of the Republic each year. He stated that the imports for 1884, in his opinion, estimated from customs receipts, were about $10,000,000. This computation was based on the money of Ecuador, which is worth about 75 per cent. of American gold, making the imports equal about $7,500,000 of our money.

From our vice-consul, Mr. Martin Reinberg, we learned that all the exports of Ecuador pass through the mercantile houses established at Guayaquil, and that as reported to him by these merchants they were a small fraction under $6,000,000 equaling about $4,500,000 of our money. Mr. Reinberg, who is an extensive im,

porter, accompanied us in our visit to the President. He coincides in the President's estimate of the imports. The impoverishing effect of this disparity between the income and outgo of the Republic we will advert to hereafter.

The subject of a reciprocity treaty was broached, whereby Ecuador might insure a free market in our ports for her products, and in return therefor receive our manufactures and products without imposts. The President said that to this arrangement there were several obstacles more or less serious. The first, and probably most formidable, was the necessity of his Government to lay duties on all imports to procure funds to maintain the public expenses. Aside from a small export duty upon hides and cocoa, and some other products, and a monopoly of the salt and powder trade, the Government relied wholly on imports for its revenue. He mentioned, however, that the question of imposing a tax upon spirits was under consideration and would be presented to Congress at its ensuing session in June. The admission of American goods free of duty would, of course, transfer the imports to the manufactories of the United States, and this would cut off the revenues, and besides, this convention would give Ecuador trouble with those nations having treaties with her containing the "most favored nation" clause.

We sought to show the President that as to this latter objection the agreement between his Government and our own would be based on and for a consideration impossible to be given by any other power, and hence the mutual concession would be outside of the stipulation in any other treaty. This he conceded; but as to the question of destroying the Ecuadorian revenue from customs, we could only say that possibly the Government might devise other sources of revenue, such as a tax on the manufacture and sale of spirits, wine, beer, and tobacco, as in our own country; licenses on certain business or occupations, specific stamp duties, and even a land tax. Of course the President felt that each of all of these modes of taxation was more difficult of enforcement than the collection at one custom-house of the entire revenue of the State. As before stated, he said the feasibility of an income from a tax upon spirits was now under consideration and would be acted upon by the next Congress, but he did not appear to know what sum could be realized in this way, nor how far it would enable him to reduce customs duties.

TRADE OBSTACLES.

The President also suggested that as the great bulk of their exports now went to other countries than ours, their cocoa to Spain, France, England, and Germany, their coffee to Chili, their cinchona, or quinine, to England, the United States coming fourth or fifth in the list of countries taking these products, the propositition seemed to give to the United States too much for what was received. As to this we replied by asking his views as to an arrangement whereby Ecuador should exempt certain articles of American manufacture or origin, instancing petroleum, to the same extent in value that our country took the products of Ecuador; submitting it to him whether such an inducement might not add to the consumption of the peculiar products of Ecuador in the United States, adding that it was our belief the use in the United States of the chief article of export, chocolate, was increasing, and that as the great merit of the cocoa of Ecuador became better known by our people it would more largely be consumed. Without further discussing this subject, the President said the tariff of Ecuador would be revised by the next Congress, and that he intended to recommend a reduction of duty upon kerosene oil, which now is taxed at the rate of 30 cents per gallon; for he believed a lower rate would produce the same revenue, and cheapen the article to all consumers, and that it might be possible to carry this reduction to other of our products, such as flour.

The value of a common silver coin current in all the countries of Central and South America and the United States, in promoting commerce between these States and facilitating exchange, he highly appreciated; but added that as yet Ecuador had been unable to develop her silver mines, and hence had none of the raw material to coin. He also said that as their products were not marketed in the states forming the agreement for a common coin, it might prove troublesome in receiving pay for their products shipped to Europe. The theory, he said, was magnificent, but practice would test its value. He wanted to know how Spain, for instance, would pay for the cocoa of Ecuador; if in fact the proposed measure would not force Spain to either use this coin or its equivalent. To this we replied that Spain bought this cocoa because nowhere else could she buy an article of like quality and flavor at the same price, and that possibly this standard value of the silver coin would give it increased power as a circulating medium in Europe, and that in any case, if it was of less value than the money of Spain, and yet had a larger purchasing power than its intrinsic value, it would be profitable for Spain to pay her debt to Ecuador in this coin. The President assented to the correctness of this view.

On the subject of a congress of representatives of all the countries of Central and South America and the United States he felt the project to be one out of which great

good might come. He desired to know whether it was intended to have the congress meet at New York. That, we told him, was a matter for future arrangement; that all we now were instructed to ascertain were his views on the advisability of such a convention, and the subjects it should discuss and the measures it should adopt.

His reply to this was that he fully approved of the meeting, provided all the states mentioned would assent to it; and that at first the body should only consider commercial questions; that in time the adjustments agreed upon in these matters would draw with them international measures, such as an agreement to submit disputes between the states to impartial arbitration instead of war; a united front against European aggression and interference in the domestic affairs of the parties to the agreement. But he thought these latter matters could not safely at first be agitated.

We finally asked the President to mention the obstacles to American commerce with his people, and what measures to remove them he would advise. To this he responded that one of the chief barriers to business with our country was the enormous freight charges to and from the United States. The transportation of the commerce of the coast between Panama and Callao was almost wholly in the hands of one company, and it made its tariff so high as to crush out many branches of trade and reduced the remainder to the smallest dimensions. It seemed to be the aim of that company to make its charges just as large as the traffic could possibly bear. To remedy this he thought the people of our country should establish a separate line of steamers, largely reducing the present onerous charges. To that end he said he and his people would gladly do all in their power; that Ecuador could and would say, if necessary, that no coasting trade should be done in her ports save in ships of Ecuador or the United States. If our people would join with his in establishing such a line and fix its charges at fair rates, the project was feasible and would prove profitable.

We also learned from the President that a treaty was being negotiated with Spain, the largest customer for their principal product (cocoa), but that further progress had been suspended by him until the new tariff should go into effect, probably in July next, and we received the impression that his Government would be glad to treat with ours on as favorable terms as it should grant to Spain. Our interview with the President closed by repeated assurances of his high admiration of our country, and the earnest desire of himself and people to be more intimately associated with us in friendly and commercial relations.

FREIGHT CHARGES.

We gathered from several gentlemen information touching our trade at Guayaquil, which we may summarize in the following manner: Referring to the freight question mentioned by the President, and reiterated by every merchant we conversed with, we found that the usual charge per ton by steamers from New York to Guayaquil is $30, and from England it is a little less than $27, while for sailing vessels it is only one-half to Liverpool, Bordeaux, or Hamburg what it is to New York. In the case of very heavy shipments these rates are subject to some modification. It will be seen at once that, other things being equal, the foreign dealer has in this item a marked advantage over those of our country, the difference in freight alone in some articles being a fair profit. The same hindrance we found stood in the way of the flour of California seeking a market here. The supply comes almost wholly from Chili, though the California article is much preferred. One importer told us that three years ago flour from San Francisco cost him $12 per ton in gold for freight, while the Chili product cost only $8 and $10, and, when brought, in sailing vessels, only $1 per ton. He was discouraged with the venture, and imported no more flour from California. Were the freights less, California would monopolize the flour trade of Ecuador, for, at the same price, its superiority would control the market. On this point we can add nothing to the facts we have stated. So long as all the business of this coast is done in foreign ships, diverting trade to their own countries and remaining unrestricted as to charges, it seems for that time the balance of the business will go to other nations than our own. A line of steamers, cared for and fostered by our people, limited as to charges, would soon absorb the bulk of the business here, other things hereinafter mentioned being rectified. Whether this shall be done by the direct intervention of the Government in some form, or shall be left to private enterprise aided to a certain limit by the Government, is a question we need not discuss, since its settlement depends entirely upon Congress. That the people here have a just ground of complaint appears obvious. From Panama to Valparaiso is about the same distance as from New York to Liverpool. A passenger pays for the latter trip about $75; for the former, $250. The same extraordinary disproportion in freight charges exists. We were informed that not long since a rival steamship line began business along this South American coast. It was bought up by the old company at a large sum, and thereupon the old company raised its freight and passenger charges 20 per cent. for six months to reimburse itself for the outlay. The statement seems incredible, but our informant insisted on its accuracy. Of course the expense of coal is far greater here than on the Atlantic, but the increase hardly warrants so marked a difference in charges.

THE COMMERCE OF ECUADOR.

Ecuador buys her goods abroad in this order: First England, then France, then Germany, and then the United States. We take all her product of caucho, or India rubber, nearly all her hides; but of her chief product, cocoa, Spain comes first, then England, then Germany, then France, and then the United States. Of coffee we take about one-seventh of her export; of her cinchona, the same proportion; and of her vegetable ivory, nothing yet. This latter is quite an important element in her resources, Germany being her best purchaser, taking last year over half the export, or 1,332,109 pounds. We send to Ecuador chiefly hardware, especially the Collins goods. Kerosene oil and lard, and some cotton goods also, are imported, but all the other importations are against us.

PERU.

[Extracts from the report of the Commission concerning its conference with the Government of Peru.]

FOREIGN COMMERCE.

We pass now to the consideration of the commerce of Peru at the present time. As before stated, the custom-houses of the country have no records showing the imports and exports since 1877. And in this connection it is to be observed that Peru relies almost wholly upon her customs for revenue, and that these are very heavy, as the accompanying statement, translated by our consul, Mr. Brent, fully shows, and hence as to imports the total must be enlarged by some estimate of those goods that illicitly enter the country. This is a large item as to all those articles capable of concealment about the person, and those, too, which can be carried ashore clandestinely in small boats. The table of port wharfage and like dues at Callao, as submitted by Mr. Brent, also exhibits the enormous burden commerce at this chief port endures; but as that is common to all importations, it does not materially affect our trade more than that of other nations.

The commerce of Peru with the United States was formerly very large, but it has now been reduced to a mere nominal amount, including only those articles which cannot be purchased elsewhere. Before the late war with Chili large imports of wheat, lumber, lard, kerosene, canned goods, trunks, clocks, sewing-machines, railway and street-car supplies, household utensils, perfumery, patent medicines, cordage, sailcloth, and other articles were made from the United States. But during the first six months of 1884 less than $300,000 worth was imported from our country, of which $5,000 was lumber; $22,000, lard; $40,000, kerosene oil; $15,000, wheat; and $130,000, general merchandise. In linen, cotton, and woolen goods the United States has no hold on Peruvian commerce, nor can our merchants obtain one until the business system at home is modified to meet the requirements of this coast, the chief obstacle being found in the matter of credits. English and continental importers, through their agents and consignees in Peru, until the recent financial crisis, gave credit to the purchasers, sometimes extending to eight, ten, and twelve months, and naturally the purchaser prefers dealing with merchants granting such privileges. This refers particularly to linen, woolen, cotton, and other forms of wearing apparel, with which the interior Peruvian markets are supplied by merchants on the coast, who are compelled to give credit to their customers and expect credit from those of whom they buy. Custom and habit also have a great influence in Peru, as in other Spanish-American countries. The purchaser becomes accustomed to a certain class of goods with a peculiar trade-mark or some special token or medal attached to the bale or parcel of goods, and on no account will he invest in any other description of the material if the old one can be had. This conservatism of the Peruvians, which is especially marked in the interior, is at once apparent from the fact that they use the same implements of agriculture and husbandry that were employed at the time of the Spanish conquest. American hardware and agricultural machinery might be pushed in the interior by means of active agents and by paying attention to the form of packing necessary for transportation on muleback.

FORMER PROSPERITY.

From 1870 to 1880, before the war with Chili began, the exports from the United States to Peru averaged nearly $2,000,000 annually; but they have now fallen off until the average is less than $500,000. In 1875, for example, which was one of the average years, when Peru was at peace, she imported $2,480,000 worth of merchandise from the United States, consisting of iron and steel, $1,100,000; lumber and furniture,

$411,000; provisions, $200,000; petroleum, $105,000; breadstuffs, $75,000; cotton manufactures, $26,000; cordage, $12,000; drugs, $27,000; tobacco, $15,000; and about half a million dollars' worth of other merchandise. This trade has so far fallen off that in 1883 we exported to Peru but $75,000 worth of iron and steel, $113,000 worth of lumber and furniture, $83,000 worth of provisions, $46,000 worth of oil, $11,000 worth of drugs, $600 worth of tobacco, $60,000 worth of breadstuffs, $7,000 worth of cordage, and $42,000 worth of cotton goods.

As has been said above, no commercial statistics have been published in Peru since 1877, owing to revolutionary movements and the war with Chili, and it is not possible to give any accurate estimate of the commerce of the country since that time. The last official statistics published gave the imports from England at 10,625,898 soles; France, 3,940,832 soles; Germany, 2,788,973 soles; the United States, 1,785,515 soles. (The value of a sol is intrinsically that of the Mexican dollar. In commerce to-day it is worth 75 cents United States gold.) Since that date Peru has lost two of her principal custom-houses, Arica and Iquique, and no imports have been effected at Mollendo for over a year past. Hitherto Peru has got her cotton goods mostly from England, some from France and Germany, and only a few from the United States. Woolen goods have come mostly from France and Germany, her linen goods from the same countries, and her silk from France and China. Her furniture has mostly come from the United States; her ready-made clothing from France and England; her general merchandise from England, France, Germany, and Italy, with a considerable amount of what are commonly termed "Yankee notions" from the United States. Most of her breadstuffs have come from Chili and the United States; her fine preserved fruits from England and France; and her preserved provisions from the United States. England, France, and Germany have controlled the drug trade. Her railroad supplies have been divided between the United States and England, the greater portion of the railroad iron, locomotives, and engines being bought in the latter country and the cars in the United States. Her agricultural machinery and her sugar mills have come from England and France, leaving to the United States a monopoly only of lard and kerosene.

EXPORTABLE PRODUCTS.

The exports of Peru formerly were very large, amounting oftentimes to treble her imports. Of the exports the United States has had only a small proportion, consisting of guano, nitrate of soda, hides, and sugar. From 1870 to 1880 the exports of the United States averaged about a million and a half of dollars, of which the greater part was nitrate of soda. The last official statistics obtainable (for 1877) show that the exports of that year to England amounted to 20,189,054 soles; to France, 3,249,000 soles; to Germany, 1,477,000 soles: to the United States, 484,178 soles. (Guano and nitrate of soda not included.) The principal articles exported, outside of guano and nitrate, have been silver, copper, and sugar, which have gone to England, France, and Germany. A little cotton has been sent to France, England, and Chili; rice to Chili and Panama; cocoa to France, Germany, and England; sarsaparilla to England, France, and Germany; chocolate to England, France, and Germany; wool to England and France; tobacco to Chili and Ecuador; drugs and dyestuffs to Germany, England, and France; while the United States has taken a greater part of the hides and goat-skins. During the year 1884 the exports to the United States amounted, outside of nitrate and guano, to but $16,000, of which $9,000 was in silver coin, $2,800 old iron, $2,100 goat-skins, $1,500 in cocoa leaves, and $610 in antiquities.

Here, as at Guatemala, we were met with the serious question whether our country was willing in a reciprocity treaty to admit free of duty, or at a reduction in favor of Peru over other countries, the products most available for immediate export—sugar and wool. While in the future Peru hopes to enlarge her outgoing productions, yet at present her most available exports are the two articles above mentioned, and as to these we could not offer any assurances that our Government would favorably entertain the suggestion.

RECIPROCITY TREATIES.

There can be no reciprocity treaty with Peru unless this question of sugar and wool is settled in favor of their free admission into our country. If it is deemed wise to make this concession, then beyond doubt valuable equivalents can be had from this country. But the matter stands in the Peruvian mind in the light of what it calls "absolute equity," and the basis of a convention whereby products can be mutually exchanged on more favorable terms than are like products of other countries requires that the two prime products of Peru—sugar and wool—should be placed on the free list. We know of no other articles produced here in so large a proportion on which to found the proposed convention. And as these products, if admitted free from Peru, would also naturally receive the same concession coming from any other country *willing to* make the same treaty, it would unquestionably result in almost wholly

supplying our own market from these foreign sources. Certainly sugar can be produced in these regions at a very low price, as we have already shown—much cheaper, we believe, than is possible at present in our own country. It is equally beyond our power or province to determine the wisdom of such a convention, for the necessary data are not in our possession to completely estimate the gain and loss, and in any case the final arbiter of the whole matter is the legislative department of our Government. We can only report that by admitting free of duty Peruvian wool and sugar into our country we can to a very considerable extent increase our exports to that Republic.

STEAMSHIP FACILITIES.

The same editorials discuss the matter of increased steamship communication under the American flag and suggest the danger that may arise from concessions to it now fair and reasonable, but which in the future may prove a burden. This matter of an American line of steamers arose in our conference with the President and his minister of foreign affairs, it being suggested by the minister, as will be seen by a reference to the report of that interview forwarded to the Department of State. The disparity between freight rates to our country and to Europe, in the opinion of the Government, and of every man who appeared before us, was thought to be one of the chief obstacles to our commerce. The principal carrying business north of Peru is done by an English company, and every advantage is given to the shipper of goods to send and bring them through the Straits of Magellan, and even when merchandise fails of transportation by this line it falls into the hands of German and French vessels, whose owners are equally desirous of directing trade to European markets. Thus every discrimination is made against shipments to our country via Panama, and every inducement offered to carry them via the Straits to foreign ports. We ourselves saw our boat filled with exports at Guayaquil and all ports south to Callao whose destination was (at least four-fifths) Liverpool, and we learned that it was the settled policy of this company to discriminate all it possibly could in favor of foreign consignments and invoices, so that against Panama and United States shipments there has been the steady and consistent opposition of the very company that receives and delivers the goods at Panama for and from this coast. A comparison of these freight rates from Callao to Liverpool and to New York brings this matter more clearly to the light.

According to the statement of Mr. Eyre, of the firm of Grace Brothers & Co., of Lima and Callao, who has been in business here for eighteen years, we found that freight per ton to New York, in gold, was at the very lowest $29, and often higher, while the same freight could be carried to Liverpool usually for $14 and seldom exceeded $15. This difference in freight each way is often a fair profit for the merchant, and until this enormous difficulty is overcome no other measure or measures will give to our merchants and manufacturers the bulk of Peruvian commerce. Of the entire willingness of Peru to aid in removing this burden in any way possible to her crippled condition, we had the warmest assurances both from the Government as well as from the merchants who appeared before us. As in our Ecuadorian report, so here we say that in some way our country must remove this obstacle and secure for our merchants and manufacturers the same or lower freight rates to this coast or be barred of a trade naturally theirs and one of very great importance. It was the clear belief of Mr. Eyre and other gentlemen that this line of steamers must be fostered by our Government until, at least, it had the same footing as its foreign competitors, all of whom began by being largely aided by their respective countries, and two of which, the French and German lines, are still so maintained. Doubtless an arrangement could be made with Peru, as with Ecuador, to give such steamers valuable coasting trade privileges, possibly exclusive in the course of time, and very liberal concessions would be made to them in the abatement of tonnage and other dues in harbors, but beyond all this it will need some very substantial aid from either the Government of the United States or of a very powerful combination of capitalists. But of this latter there is very little hope, unless, indeed, its advantages should be limited to the business these investors would furnish; and, hence, instead of making a cheap freight line to our country, open to all shippers, it would prove the monopoly of the investors.

In our conference the President was attended by the minister of foreign affairs, Señor Baltazar Garcia Urrutia, and the minister of hacienda.

The full report of the consultation forwarded by the secretary, Mr. Curtis, to the Department of State, shows what was said, and little comment thereon is necessary. It will be noticed that the President and his minister of foreign affairs are very guarded in their expressions, desiring on many points presented to them time for "mature consideration." This was quite natural, since the President and his Government, as we have before remarked, are entirely provisional, continuing in power only until the "pacification of the country," an indefinite period, which may as readily be believed to be of long as short duration. Under such circumstances it might well be that the

President would feel a natural hesitancy, even in an informal conference, from assenting in a positive manner to some proposals we had to present.

We have hereinbefore discussed the question of reciprocity as viewed from a Peruvian standpoint, and need not discuss it further than to say that while Peru is quite willing to meet us in some fairly-adjusted exchange of free articles, yet as that, under any possible convention, must mean a free market in the United States for Peruvian sugar and wool, we see no necessity for dwelling upon the point, and this more especially because the wool product of Peru, like our own, is of the fine merino grades. The details of such a treaty, its effect in building up a marine service for each Government, and its being so drawn as to avoid "the favored-nation clause," was touched upon, but on these points neither the President nor minister stood ready to advance any fixed opinion.

Of the protection of American capital and citizens investing their money in Peru under the terms of the treaty, there seemed to be the utmost assurance of inviolability and security.

The question of a silver coin of equal quality and fineness current in all the countries assenting to its creation for the same value received the hearty approval of the Government, which thought such a measure would "greatly facilitate commerce."

The suggestion of a convention of all the countries of Central and South America and the United States was very favorably received, and in response to our inquiry as to what subjects the convention should consider, we were told that Peru proposed that the United States in calling the convention should outline the topics to be discussed, and that each state should have the right to present to the meeting such other subjects as it thought best.

We have already said that the necessity of an American steamship line was submitted to us in response to our general inquiry as to what way trade between these countries could best be promoted; and we only refer to it now to say, that the discussion on this point took a much wider range than is epitomized in the paper before spoken of as sent to the Secretary of State, but there was nothing of importance advanced not contained in that dispatch. The feeling in its favor evinced by the President and his ministers was very earnest and outspoken. With many assurances of the good will of Peru, of its desire to be drawn towards the "Gran Republica," as our country is almost invariably called by the Peruvians, and with repeated expressions of pleasure that our Government had sent to Peru an embassy of good will, our conference closed.

The frequent expression in private conversation and newspaper publications by citizens of Peru that the present embarrassments of England offer a favorable opportunity for the United States to obtain more of the commerce of South America, we beg leave here to suggest as containing a significant hint of not only a fact but of the desires of these peoples.

CHILI.

[Extracts from the report of the Commission concerning its conferences with the Government of Chili.]

These propositions were similar to those which have been presented to all the Governments visited by the Commission, covering the points in the instructions under which we are acting.

The first was a suggestion that the old treaty of amity, commerce, and navigation between the United States and Chili, which long since was terminated, might be renewed with advantage to both countries.

In reply to this the President said that he did not see any advantage to Chili in such a treaty, and was not disposed to enter into any further conventions with foreign countries. While he personally and the people of Chili in general "abounded" in the most cordial feelings towards the Government of the United States and its people, and endeavored to imitate us as closely as possible, he could not see any necessity for a treaty, and thought the two nations could get along just as well without one.

The second proposition involved the idea of a reciprocal commercial treaty between the two countries, under which special products of each should be admitted free of duty into the other when carried under the flag of either nation.

This did not meet with any greater favor with President Santa Maria, who was not disposed to make reciprocity treaties. His people were at liberty to sell where they could get the best prices and buy where goods were the cheapest. In his opinion commerce was not aided by commercial treaties, and Chili neither asked from, nor gave to, other nations especial favors. Trade would regulate itself, and there was no advantage in trying to divert it in one direction or another. So far as the United States

'as concerned, there could be very little trade with Chili, owing to the fact that the roducts of the two countries were almost identical. Chili produced very little that 'e wanted, and although there were many industrial products of the United States nat were used in Chili, the merchants of the latter country must be allowed to buy :here they sold, and where they could trade to the greatest advantage. With refernce to the provision that reduced duties should be allowed only upon goods carried in 'hilian or American vessels, he said that Chili did not want any such means to enourage her commerce; her ports were open to all the vessels of the world upon an quality, and none should have especial privileges.

It was suggested that there might be a large commerce between the two countries f the low-grade guano, which is adapted to the cultivation of cotton in the Southern tates, and is not sought for in Europe, could be exchanged for the manufactured prouets of the United States. The President very frankly, and somewhat bluntly, reponded that the Government of Chili owned all the guano, and had given the nonopoly of the exportation to a company of which the people of the United States ould purchase as much as they liked.

The next topic seemed to be received with decided favor, and not only the Presilent but the three ministers present joined in expressing their acquiescence. It was ouching the establishment of a common silver coin, to be coined by each of the American republics, of an equal degree of fineness, and to an amount to be agreed ipon, which should be a legal tender in all commercial transactions between citizens of this hemisphere. This proposition, which has already been assented to by Mexico, Veneznela, Guatemala, Costa Rica, Ecuador, and Peru, was accepted by President Santa Maria as a long step toward the monetization of silver, and it adopted by the American republics, might, in his opinion, compel the Latin Union to accept a double standard, and increase the value of one of the chief products of Chili. His Government, he said, was ready to enter into a convention with the United States and the other American republics at any time to secure such a desirable result.

The fourth proposition, which invited the views of the Government of Chili as to the practicability of holding a Congress of delegates from all the American republics, to adopt measures to secure peace and promote prosperity among the nations of this hemisphere, met with disfavor. His Excellency could not see the advantage of such a gathering. Chili had learned by experience that nothing could be gained, and that the general welfare was not promoted, by international conventions. He could not think of any measures a congress of the sort would agree upon, and while his Government was anxious to avoid war and secure a peaceful settlement of international disputes, the proposition did not find favor in his eyes. If the United States desired to call such a congress, Chili would consider the invitation, but reserved the right o decline, in case the Government so desired.

The fifth and last proposition was a general one, and invited the suggestions of Chili as to the best modes of increasing trade between that country and the United States. The President repeated what he had previously said about the impossibility of securing a large trade, but thought if there could be direct communication by team from the ports of one country to those of the other, commerce would be greatly aided. If any steamship company in the United States would establish such communication he believed the Congress of Chili would give it a subsidy, such as was given now to the Pacific Steam Navigation Company of Liverpool. That line receives an annual subsidy of $50,000 silver, and the Chilian Company, which employed vessels along the coast between Valparaiso and Callao, was given $150,000 a year, under the condition that its vessels were always subject to charter by the Government and might be used as transports and cruisers in time of war. Similar aid would be offered to any company desirous of trading along the coast of Chili, as it was the policy of the Republic to encourage commerce and stimulate competition.

The consumption in favor of our country continued in Chili until 1861, when our whole commerce and shipping seemed to vanish from the South Pacific coast in a day, and to this hour its predominance has not been regained.

Before the civil war there were many vessels from our country trading in these South American ports, and, with their disappearance, there arose an increased demand in our country for all the mills, forges, looms, and fields the land could produce and at such prices as to forbid all thought of profitable export. These people were in a moment driven to Europe for all fabrics not produced by themselves. With this there came the enlargement of the number and capacity of the vessels of the Pacific Steam Navigation Company, a gigantic power in all this international traffic, and which owed its origin to an able, foresighted American, William Wheelwright, who carried from Valparaiso to New York merchants this plan of a steamship line to control the trade of this region, only to be repulsed, and who found in English capitalists a response which, in course of time, has carried millions of trade to the Old World which might have gone to the New. Close, certain, and speedy lines of communication now exist between the ports of Chili and all the principal ports of Europe. Not only does this English line do a great carrying trade from Liverpool to all the

to Hamburg and then reshipped to these waters it is clear that the German ma urer has the freight and port charges from our country to his own in his fa competing with our merchants and producers.

Few goods come to this country from ours in steamships save by way of I The freight from New York by Panama is about double that by way of Haml Liverpool, and the universal complaint of the breaking of parcels and boxes Isthmus transit shows that many shippers in that item alone find a loss so ser to more than negative any advantage in time that route may afford. In fa trouble at Panama is so large as to become an insuperable objection to that li

We know of no way to obviate it, for if the self-interest of those controlli link of connection between the two oceans will not unite them to prudent ha of goods, we know of no power to compel it. One would suppose that a de do the transit business for all this Pacific coast would of itself lead the mana this interoceanic highway to the utmost vigilance, for the dullest can see yearly losses an enormous amount of traffic which naturally belongs to its p and capacity.

We have already in former reports adverted to the extraordinary influence English line of steamships in diverting trade from our country to European po in their homeward voyage they touch Lisbon and Bordeaux, and so aid Frenc chants and those Spanish traders who ship their goods to the mouth of the Ta sending and in receiving goods from this coast. The English steamer on wh go to Montevideo has a large cargo, much of it to be unloaded at Bordeaux, which is a lot of dried sort of fruit called here macqui, and which enters exte into the manufacture of Bordeaux wine, to which it imparts a deep-reddish col a pungent taste; the same product also aids the wine manufacturer of Chili extent in some cases of 80 per cent.

These steamship lines from the Old World to South America are a controlling in shaping and directing the great balance of trade. Every week the flag and of Great Britain, France, and Germany are seen in these ports. Their comin going is advertised in the daily press. They transport goods of many kinds so cheaper than the same articles can be brought from our country that that diff alone compels the purchaser to elect the foreign-made article.

In the beginning, we are informed, not one of these lines could have been tained without Government aid, and two of them still receive such encourag from the country whose flags they fly, and the others receive large mail pay fr Chilian authorities. When we applied for information at the office of this E line of steamers as to the sailing of American steamers from Rio Janeiro, th said, "American steamers? I didn't know the Americans had any steamers. I saw one."

Doubtless were it not for the want of full return cargoes a line of steamers be successfully established from our own country to Chili and ports farther But here lies the difficulty: There is an old marine maxim, "No uncertain freight can compete with two certain ones."

Read, in Valparaiso. He ordered some street-cars a long time ago from a manufacturer in our country for a city of Chili. The authorities have had the track down for months, but the cars have not yet arrived, and there is, of course, much vexation over the delay. That our railroad supplies are forcing their way here is illustrated by many facts stated by Mr. Hillman, and with an equal start our people can easily pass their competitors.

For all farm work American machinery is preferred, were it not for the drawback of its comparative lightness with that of English or German make. Ours is the more convenient, better adapted to its use, but when all the machinery is to be handled or driven by men careless, or stupid, or ignorant, the value of heavy work is seen. One gentleman said to us it would well pay our agricultural-machine manufacturers to come to Chili and see what kind of carts, wagons, hoes, cultivators, mowers, and reapers and thrashers we need for our labor. As it is, our country is annually swelling its trade in this direction, and with improved carrying facilities, with better packing, and more attention to clear invoicing, we may hope to absorb nearly the whole trade, though we will always have to contend with German peddlers, who imitate our style and make of goods as well as our brands and marks.

This ownership of the tillable area by a few persons creates a powerful landed gentry, who, together with those in the large cities who have grown wealthy in mines or trading, almost wholly control the State and its policy. The masses are poor and seem to be quite indifferent about improving their condition. Now and then there rises above the common level a strong spirit, and he soon finds his way to the upper rank, but these are exceptions. The powers of education as they widen may justly be expected to reach more and more men of this stamp, and in time may vitalize the whole.

We spent a few days after our arrival in Chili at Valparaiso, as that is the commercial center of the Republic. The interviews we had with all the leading American business men, as well as some others, we have already alluded to, and they are herewith forwarded. Some of them are very valuable, showing the views of these practical men on the ground as to what our country and her business men must do to win the trade of this coast.

We gave his Excellency a minute of the topics we had to present to him, the first having reference to the absence of any treaty of amity, commerce, and navigation between Chili and the United States, and followed by an inquiry whether his Government was disposed to consider the negotiations for one favorable, and our second point covered the matter of a reciprocity treaty, or negotiation for one, on the basis set forth in our instruction. The President was attended by his minister of exterior relations and minister of hacienda. In response to our first suggestion, the President chose to consider it and the ensuing proposition together. He said it was out of no want of respect for the United States, for whom he and his people held the highest esteem, but it was his settled belief that all treaties were needless; that they subserved no valuable end, and that in the matter of reciprocity there could be no control by any convention of the laws of trade; that men would buy and sell where it was most to their advantage, and that this could not be aided or materially influenced by national compacts.

In reply, we asked him to consider the first proposition as quite distinct from the other, and suggested that it could be passed upon, as entirely independent of any reciprocal arrangement whatever.

He replied he did not consider it in that light, and that the objection he had to one was equally formidable to the other.

All effort to induce him to treat of the propositions separately was futile.

This was the more inexplicable because of his assurance of the high regard in which he held our country, and yet he assured us one reason why he could not entertain in any form the matter of a reciprocity treaty was that the "favored nation" clause subsisted in many treaties Chili had with other powers.

This seemed to us very irreconcilable, but we failed to lead him to consider either question in a favorable light. Neither did we draw from anything he said that his Government was proposing to terminate the treaties with other nations containing this "favored nation" clause, but on the contrary he seemed to be quite satisfied with them. All this, however, we had been led to expect from the tenor of the President's conversation with Dr. Logan on the subject. In the course of debate, however, the entire want in Chili of any valuable product we needed in the United States on which to form the basis of a mutual convention was pointed out by the President in a clear and forcible manner, and this point we thought to meet by suggesting the possession by his Government of what we were informed were vast beds of low-grade guano, and that on this article we might discuss the project. But to this he answered it was inadvisable, because Chili, owning all the guano of any account in the world, must mine and sell the product as a private individual, through agents and consignees, and that if the United States desired to buy it could do so, just as any other purchaser;

that it was no favor to Chili to have the United States buy her guano, as she could sell all she had in other places.

We suggested to Chili the value of the coasting trade of our country with her ships in case a fair convention could be made. To this we were answered that Chili already opened all her coasts to the vessels of any nation, the United States included, and that in turn the Chilian flag ought to have access to our ports in like manner. Of course it was not worth while to dwell upon such an avowal.

On the matter of a common silver coin, of a quality and quantity to be agreed upon, the President expressed himself in terms of complete approval. He saw in it a movement of immense advantage to all the silver-producing States, and a means of enhancing commerce between the nations adopting it. Any steps our country would take in that direction will meet a quick response from Chili.

The proposition to call a congress of the American states did not meet his very decided approbation. Chili, he said, had not realized any satisfaction from the attempts she had made in that direction in the past, and he had serious doubts whether any good could grow out of it. He would remain non-committal on the plan itself as well as the subjects to be discussed, if one should be called. Chili, at the time the convention should be called, would determine whether she would be represented or not.

In response to our inquiry as to what he would suggest as the best way to increase commerce between our nations, the President dwelt upon the advisability of the United States starting a direct steamship line from her ports to those of Chili. This, he thought, would be of more advantage to both nations than anything he could suggest. In this conversation he said he stood ready to aid such a line to the full extent the English line now had Chilian subsidies, which are $50,000 per annum, and that the measure would have the warmest approval of himself and people. He said the disappearance of the flag of the United States from their seas had much to do with the diversion of trade from our country to foreign ports, and that its restoration would tend to draw back that commerce in a much faster ratio than it was at present moving.

NEWSPAPER OPINION.

[Translation from the Union.]

VALPARAISO, *May* 5, 1885.

The last papers by the steamer Callao bring notice of the reception, by the President of Peru, of the special legation which the Government at Washington, at the instigation of the Congress, has sent to the peoples of Central and South America for the purpose of studying their economic situation, and to strengthen and augment the mercantile relations between them and the "Great Republic."

The reading of the discourse pronounced by Mr. Thacher, chairman of the embassy, leaves a most grateful impression on the mind. Among the diplomatic phrases and reminiscences skillfully brought up to please the Peruvian people and their Government, one discovers the strongest desire to inspire confidence and sympathy, and to prepare the ground for the success of the mission of friendship, progress, and mutual advantage confided to the skill of the plenipotentiaries

We believe we can say that these diplomatists will be sure of a good reception, because the commercial, more than political, character with which they come inspires confidence indeed in the most distrustful, both on the side of the authorities and the press, and they will have a quiet and conscientious investigation of the phenomena which they were sent, by the Congress of the United States, to investigate.

To co-operate, as much as lies in power, we shall therefore anticipate a few ideas, which we shall further explain after the Commissioners have presented their credentials.

For those well posted the object of the mission is well understood. More than once the political economists, editors, and great manufacturers of the Great Republic had taken note, with a sentiment of sadness, and we almost said of envy, of the depressed and low condition of the North American commerce with South America, compared with the astounding progress and prosperity of the commerce carried on by these countries with England, France, Germany, Belgium, and the other manufacturing countries.

Without exaggeration we may say that these nations rule our market, and the commerce of the three first named exceeds that of all the other nations of the Old and New World put together. And the statistics show it is increasing year by year with increasing rapidity, forming a painful contrast with the slowness our commerce increases with the United States.

For, in the last twenty years, commencing from 1863, the imports from Germany have increased from $772,515 to $10,015,564; those of France from $4,301,858 to $8,935,309; and of England from $8,090,069 to $21,638,271; from the United States they have only increased from $1,635,598 to $3,601,492.

ıotable still are the exports, for to Germany they increased from $684,596 to 38; to France from $1,649,364 to $6,208,927; to England from $12,313,029 to 322; but to the United States exports only increased from $1,352,672 to '8.

n therefore say that should the commerce with the other nations continue in ɔ proportion, before twenty-five years have elapsed North American commerce ɔe practically excluded from our coasts, as the North American flag now is, 'as represented last year by 2 steamers only, in the presence of 10 Spanish, :h, 100 German, and 1,944 English.

Inited States cedes in nothing to other nations, neither in its population, , nor industrial progress; it rather surpasses them by its proximity and the ıies engendered by the community of institutions and aspirations. We see ıt it is a case which excites our curiosity, wounds our self-esteem, affects vast s, and needs careful consideration and efficacious remedies.

'nited States no doubt believe, and they have reason to, that the humiliating their commerce in South America can neither be natural nor fatal, and, that g the case, there is a possibility of bettering it by removing the artificial ob- which prevent its taking the first rank and place of honor pertaining to it.

'orthy plenipotentiaries of the United States would commit a grave error if ributed the prostration of their commerce here to antipathies or bad feeling their country, or to a traditional and unconscious predilection for European ɔtures. On the contrary, there is no one in Chili but recognizes the superi- American products, natural or manufactured, and it is very probable that as price and quality they are preferred to European goods, with the exception, , of articles of fashion, art, and other fancy articles, which we receive from

ı spite of all this the English and Germans have the almost exclusive control outh American markets. And why? We have already said that the hour has ved to answer this fully. But we may say, as a general thing (so that it may a starting point for the Chilian press, and the North American plenipoten- hemselves), the following:

lieve, as do some American ministers whose articles we have seen reproduced l in Santiago, that the United States do not find markets for their products ı America because the United States has shut her doors to the products of merica. The United States Government has by means of its heavy tariff pre- ɔ realize the impossible, or the absurdity to sell to all the world without buy- :hing from anybody. Commerce is made up of exchanges of merchandise in ach country cedes to the other those products which it produces of a better and with less expense owing to the better natural advantages with which it blessed; and therefore, in political economy, it is an axiom that products are with products, and that a country cannot buy without selling, or sell with- ıng.

ɔeing so, it does not need much keenness to discover the origin of the evil, oint out the remedy. If English goods come here in large quantities it is the ports of Great Britain are open to Chilian products. If we buy of the it is because they do not repel through a protective tariff the articles we , and of which we can avail ourselves to pay for what we buy. And, if the States desire to enjoy the benefit which the English reap from this commerce, ve only to imitate their example, lowering their tariff and opening their ports

ı measure would be much more efficient for the objects sought for by the honor- ıipotentiaries than their manifestations of friendly feelings towards these s, manifestations which we consider sincere, and which we hold at their true ut which of themselves alone, and not being seconded by the practical meas- ve stated, cannot produce any favorable change in the condition of the com- that Republic with the people who inhabit this continent.

URUGUAY.

from the report of the Commission concerning its conferences with the Government of Uruguay.]

ıda of topics to be considered at a conference between the Government of Uruguay and the Commissioners from the United States.

ıe desirability of closer relations between the two countries because of the their political and material interests.

ɔ promote the peace and prosperity of Uruguay, the United States is disposed its moral influence.

(3) Is not a general treaty of amity, commerce, and navigation between the two countries desirable?

(4) Can we find the basis of a reciprocity treaty between the two countries which shall avoid "the most favored nation clause" in existing treaties, and leave concessions in favor of the peculiar products of each country in the markets of the other?

(5) What does the Government of Uruguay think of the establishment of a common silver coin which shall be legal tender between citizens of the United States and Uruguay and other American Republics?

(6) How does the Government of Uruguay regard the plan of holding an international Congress, to which each of the American nations shall send delegations, to formulate measures to protect the peace and promote the prosperity of each other, and to resist European interference in American affairs, the position of the United States being that the American Republics are capable of determining what is best for their own interests, and should protect, defend, and encourage the development of each other?

(7) What does Uruguay suggest as necessary to be done by the people of the United States to pron ote commerce between the two countries?

MONTEVIDEO, *June* 2, 1885.

The President of Uruguay, General Santos, and his ministers, after expressing with great ardor their admiration for the United States, their efforts to imitate our Government in all things, and their desire for closer relations, accepted without discussion each and all of the propositions referred to, except that which relates to a reciprocity treaty with the United States. To this they would have readily assented also, had the Commission felt justified in encouraging them to expect that the Congress of the United States would consent to a reduction or a removal of the duty on wool. This, being the chief product of Uruguay and the only article exported to the United States which is not taxed under our tariff, was of course that in which they felt the most and only interest.

With regard to the proposed common coin and the international congress they were quite enthusiastic.

The Government of Uruguay, they said, was not in such a financial condition as to offer pecuniary aid toward the establishment of a steamship line between its ports and the United States, but very earnestly hoped that something might be done in this direction, and would agree to afford the steamers special privileges in the matter of harbor dues.

As the Government has recently entered into a contract with a French company to improve the harbor of Montevideo on an expensive and extensive plan, it is suggested that their proposition as to special harbor concessions be considered at once, and accepted for a term of years, as when the new breakwater and docks are completed harbor dues of all sorts will be enormously increased.

Recently a contract has been made to render the harbor of Montevideo a perfect refuge from storms and to supply it with wharves in waters deep enough to permit the largest ocean steamers to moor at their sides for the discharge and reception of cargoes. When this great breakwater is built and the proposed dredging and docks completed, a largely increased commerce will be the result, for this point will be a prominent entrepot for the up-river trade. The upper river La Plata and its tributaries, furnishing thousands of miles of navigation, are reached by three lines of steamers under the French flag, which carry from and bring to Montevideo the merchandise and products of Paraguay and the northern provinces. These cargoes are transshipped from here to the ocean steamers without being landed. Recently several lines of steamers have saved the expense and delay of this transshipment by reaching the upper portion of the river La Plata, and it is said a few years will see several commercial cities springing up 1,000 miles beyond Montevideo, in a country where the products are similar to those of Uruguay. The importance of this point is found in the single statement that freight comes and goes on twenty-one different lines of European steamers. There are now and then sailing vessels from our ports seen here, but never steamers. A person here desiring goods from our country by steam communication must order them to Liverpool, Hamburg, Bordeaux, or Havre. Freight is carried to our ports by two English lines, but when they have discharged their cargoes of hides and wool or coffee, received at Rio de Janeiro, they take in goods for the foreign ports above mentioned, but they never proceed directly from New York to any South American ports; their destination is some foreign city, where they unload, refit, rest, and then start out on their circuitous route. The fact of so many European lines struggling for the commerce of the country shows its present and prospective importance. Indeed, so vigilant are foreign nations to secure it that they aid these steamship lines with liberal grants, and within a few weeks we were told by our vice-consul, Mr. Thomas W. Howard, that Germany had sent out a commission, consisting of Prince Frederick von Hohenlohe and Captain von Schroder, charged with the duty of promoting more friendly commercial relations with the South American countries. The commission was to have sailed from Hamburg the last of April or first of May.

The commerce of this La Plata region is only in its infancy. Within a few years after the completion of the harbor here there must be in this Republic alone a trade equal to that of the whole valley. The increase during the last few years has been very great, and is prophetic of the future. Telegraph lines and routes for mail coaches already cover the country, and these pioneers of the locomotive are drawing the thoughts of the people toward the needs of quicker and cheaper means of transportation.

PROSPECTIVE IMPORTANCE OF TRADE.

The prospective importance of this region in a commercial point of view is to be measured in part by the judgment of business men in the Old World, who are putting forth redoubled efforts to fasten it in grooves running alone to their own ports. And these endeavors have not in the past proved failures. The establishment of steamship lines liberally subsidized by their Governments at first was not remunerative, but now they do a fair business, and, above all, have quadrupled the trade with their own country. Belgium has just concluded a convention with an English line of boats, Lamport & Holt, to communicate between the ports of the La Plata and Antwerp, giving this company a subsidy of $50,000 per annum.

In the former years before the late war in the United States our commerce with these countries was much larger than now, and the United States flag was scarcely ever absent from the anchorage at which it is now seldom seen. Seizing upon this opportunity offered by the withdrawal of our shipping, with great persistence the nations of Europe pushed their steam lines into this country, aiding them by liberal subsidies, until now England, France, Spain, Italy, Germany, and Belgium have each one or more steamship companies connecting the River La Plata with their port. These companies have in every instance received the aid of the Government under whose flag they sail, as above stated, and although offers have been made by the nations of the River La Plata to subsidize vessels connecting them with the United States, no one has yet been found to accept them, because of the lack of encouragement in our own country.

OUR COMMERCE WITH URUGUAY.

The present condition of our commerce with Uruguay is simply that demanded by the necessities of these people. Ordinarily no goods are purchased in the United States for export here that can be obtained elsewhere, although it is the unanimous testimony of importing merchants that the manufactured merchandise of the United States is more popular here than that of any other country. Wherever our industrial products have come in competition with those of England, Germany, or France, they have been successful, but the difficulty of obtaining them has made it unprofitable to enlarge the trade. The cost of transporting a ton of merchandise from New York to Montevideo by steam is more than double that from any of the European ports; and importations by means of sailing vessels is discouraged by the length of time required and the uncertainty of the transit. A merchant in Montevideo ordering goods from the United States is compelled to wait from five to nine months before receiving them, and is never certain when they can be delivered; whereas he can cable an order to Europe and have the goods delivered here within forty-five or sixty days. The cost of transmission by cable to the United States, there being no direct cable communication, is so exorbitant that this means of communication is seldom used, the tariff being $3.95 a word, in gold, the address and signature being charged for. The cable rate to Europe is a little more than one-half the above. An American company, which now controls a cable line by way of Galveston to the west coast of South America as far as Callao, has projected a line from New York to the east coast of South America, which may be completed within a few years, and thus enable electricity to be used to advantage. One importing merchant at Montevideo informed the Commission that nine months ago he ordered an invoice of merchandise from the United States, and had not yet received it. It was not sufficient to furnish a cargo of itself, and his agents there were compelled to wait until other orders had been received that would fill the vessel. The same merchant stated that the last cargo he received from the United States was one hundred and twenty four days in transit, and that the cost was greater than it would have been if the goods had been ordered in Europe and shipped here by steam. The sailing vessels arriving here from the United States are usually under European flags, and are chartered as occasion offers at the port of New York. It may be added that, as stated by Mr. Lane, whose statement is hereto appended, that in the matter of cotton goods our products are considered too fine for the use of a certain class of the population, who prefer a cheaper fabric imported from Europe. The products of the Wamsutta Mills, however, are extensively used in the market. The high prices asked for American fabrics are justified by the superiority of the article, not

only here, but in other South American countries; and it is suggested that if our manufacturers of cotton goods would produce an inferior article, so that it can be sold in competition with the goods imported from Manchester, a large trade might be built up, provided means of transportation were afforded.

There is less complaint here as to inferior packing than has been made elsewhere, which may possibly be attributed to the fact that articles imported into this country from the United States are not so liable to damage as those taken to other places. Neither is the same complaint as to the size of the packages made, the interior transportation here being done by carts instead of by pack mules, as in the more mountainous regions.

POPULARITY OF AMERICAN GOODS.

To all the foregoing we may observe that toward our country and her products there is a strong predilection. These people look upon our nation as their model. They consult our institutions, our decisions, and expedients as a precedent for their own action. As one gentleman said, "The United States is our mother; she points us to the way of peace and greatness; in striving to do business with this country our merchants have no antagonism to overcome, no apprehension of latent hostility to allay." On equal terms our commerce would soon be paramount to all others here.

One of the largest American merchants, Mr. Evans, whose long residence here and his great success entitle his words to just weight, claims that a line of bi-monthly steamers carrying freights and passengers as cheap as it is now done between this and European ports would very shortly absorb an enormous business now done in foreign bottoms. He mentioned some lines that would be compelled to withdraw entirely in presence of such an American competition. The conditions of success for such a home transportation lie first of all in Government aid. This need not all come from our own treasury. So desirous are the people here and in the Argentine Republic for increased commercial facilities with our country that each stands prepared to aid in all that lies in their power. This state would grant valuable privileges in its harbor, and these would be of large moment with the completion of its breakwater. Argentine would give not only harbor concessions, but also a direct subsidy proportionate to that bestowed by our own people. From no one authorized by experience have we heard it suggested that our country can build up its trade interests here in any other manner than that which has proved so successful with the European countries. There are no sufficient considerations applicable to our products which tend to force them into use in preference to those using cheaper and more expeditious modes of transit. Neither need there be many years of aid given to these subsidized lines. All agree that once they are established, such is the buoyancy and vehemence of our business life they would soon not only be independent but profitable. With their creation there would flow into this great valley American wealth and people, and with them would come stronger inclinations of this region to our own country, and new ties of interest, friendship, and business would be multiplied annually.

The customs regulations of this Republic are very favorable. Goods can be shipped here and remain in secure custom-houses for a year free of duty or tax, and after that they are only subject to a slight storage charge. The tariff is heavy, but its charges need not be paid at all if the goods are re-exported, and are not payable until the goods are removed. The finances seem to be, in one respect at least, superior to any we have seen. There is no depreciated currency, and here is the only place where American gold will not bring its full value in the local circulating medium.

We unhesitatingly say that, in our opinion, the United States can in a few years advance to a position as superior to any other nation in its commerce with this country as it is now inferior. The object can be reached by placing a steamship line on such a basis that it can carry freight and passengers at as low a rate from Montevideo to our ports as they are now transported to Europe. Moreover, the present is an exceedingly propitious time to promote the commerce. The transition state of this land, the new life before it, the growth of its power to demand and consume, the kindly eyes it turns to our shores, all urge a speedy opening of the channels of trade between our countries.

CONFERENCE WITH THE GOVERNMENT.

The next day after our arrival at Montevideo our secretary, in company with the Hon. William Williams, our minister, called upon the secretary of foreign affairs and gave to him a copy of the letter of the President of the United States to the President of the Oriental Republic of Uruguay, and also a copy of an address which we proposed to make on the formal presentation of the letter of our President. Shortly thereafter the President of Uruguay received us in open audience, at which time we

presented to him the letter and also delivered the address, a copy of which is herewith submitted, together with a translation of the President's reply thereto.

Between the interview with the secretary of foreign affairs and our reception we were engaged in taking statements of many American gentlemen in trade here or who had long experience in the country, and we also obtained information from other sources, all of which is herewith transmitted. We have also in this connection to acknowledge the co-operation of Mr. Williams, and the very valuable services and information given to us by our vice-consul, Mr. Thomas W. Howard, whose written statement, as well as oral, will be found with the inclosures herein.

At the interview with the President we pursued the same general line of topics observed in our conferences with the other Governments; but as we have no treaty of amity, commerce, and navigation with this country, we called the attention of the President to that fact. He gave us the warmest assurance of his entire willingness, and in fact of his desire, to negotiate such treaty at any time our Government requested. In this connection the President said to us that he and his people looked upon the Government of the United States with the greatest admiration, and that they were trying to imitate all the good and, as he expressed it, "grand features in our national life"; that the people of the Republics of South America, as far as he was informed, all looked upon the United States as the mother of all the Republics, and her voice and her wishes commanded the utmost respect from them all; and that in his country there was a very strong and general desire among the thinking people to be on more kindly and friendly terms with the United States. We assured him that our Government entirely reciprocated the feelings of good will he had expressed, and that we would communicate the desire and readiness of his Government to enter into treaty relations with our country.

A RECIPROCITY TREATY.

We asked the President if he could suggest the basis of a reciprocity treaty between the two countries, whereby the products peculiar to the one should be admitted either free of duty or at greatly reduced rates into the ports of the other. He said it was a matter he had been considering ever since our arrival here. We may observe that we also furnished to the secretary of foreign relations a memorandum of topics we desired to discuss. The President remarked that the difficulty was to find products of this country not produced in ours; that we admitted now free hides, and all the results of cattle-raising of his country, so far as he knew. Next to this, or perhaps of greater importance, was the wool interest; that our country placed a heavy duty on the wool of Uruguay; that at one time most of their wool found a market in our country, and with that market came a large trade, but that for various causes, especially the duty on wool, the trade had departed; that he was anxious to find a basis for a mutual concession, out of which might come a greater commerce between the two countries; that his people preferred to do their business with our country if it could be done on as reasonable and as profitable terms as with any other. We did not feel at liberty to intimate that our country would modify its duty on wool, and left the matter with the general understanding that if any treaty of reciprocity acceptable to our people and the people of Uruguay could be found or devised, the negotiation for such a treaty could be taken up hereafter.

The President expressed himself as warmly in favor of a convention of all the Republics of the western hemisphere being called by the United States. He thought that the initiative of such a congress should come from the oldest and strongest Republic; that his Government would gladly send delegates thereto; that the call for the convention by the United States should also cover a suggestion of the topics to be considered, each country, however, having the right to present for consideration such other questions as the delegates thereto might be directed to bring forward. He believed that such a convention would result in great good. He thought that possibly in regard to the question of a common silver coin, the advantage of which to the countries adopting it he conceived to be very great, should be considered by the convention.

To our general question, "What do you suggest as promotive of both friendly and commercial relations between the two countries?" he responded very quickly, "Establish steamship lines between your ports and ours." He remarked that the American flag was rarely seen or never upon an American vessel, except sailing or war vessels, and that infrequently; and that were such a line to be created he had no manner of doubt of its tending to furnish to the United States a very large share of the business of this country. He said his Government was too poor to contribute in money towards the building up of such a line, but they could in other ways aid it, and most certainly desired to do so, and he hoped that the result of this commission

would be to bring the matter so strongly before our Government that it would speedily inaugurate a line of merchant steamers from our ports to his.

All the expressions of the President with respect to our country, the desirability of his people doing their business and extending their trade relations thereto, were of the most emphatic and cordial character. The conference concluded by utterances of good will on the part of the President, of admiration of our country, and of the earnest hope that the two should be drawn together by commercial ties, and the interchange of friendly relations produced by the advent of American citizens and American capital into the rich country of Uruguay. He expressed the belief that our mission here would be productive of great good, not only assuring this country of the good will of ours, but in drawing their attention more particularly to the United States and her products.

THE COMMERCE OF URUGUAY.

[Statement of Thomas W. Howard, vice-consul of the United States at Montevideo.]

The natural resources of Uruguay are great. Production, and consequently commerce, are constantly increasing. The population is rapidly augmenting, and the Republic bids fair to be at no distant date one of the richest of the South American Republics.

San Felipe de Montevideo, the capital and chief port, is pleasantly and well situated at the mouth of the river La Plata, and, owing to its position, must in time control the whole trade of the River La Plata Valley. It has already a large trade with Paraguay, the Brazilian provinces on the upper Paraguay and Uruguay, as well as with the Argentine provinces of Entre Rios and Corrientes, which trade is rapidly increasing.

Montevideo has bonded warehouses, and the custom-house laws in this respect are very liberal. Goods can be stored, and if reshipped within one year pay no storage whatever. This wise law has given this city much of its trade with the countries above mentioned.

A bill has already been passed by Congress for the construction in the Bay of Montevideo of a port consisting of breakwater, wharves, &c., upon which $15,000,000 will be spent, and facilities will thus be given whereby vessels of the largest size can load and unload at wharves, thereby saving time, money, and damage from breakage. At present vessels are loaded and unloaded into lighters, and much time is lost, as in stormy weather all business is stopped; often not more than twenty days in a month are working days. The cost of lighterage is very high, and may be estimated at about one-third the cost of freight from here to the United States, much of which will be saved by the construction of the port works.

The city has a population of about 130,000 inhabitants. It contains many fine public and private buildings, besides numerable fine plazas or parks. The health of the city is good, the mortality being much less than in other cities of the same size.

Territory.—Uruguay is divided into fifteen departments, and has a superficial area of about 63,341 square miles. It is one of the smallest of the South American Republics, but is much larger than Portugal, Greece, or Switzerland, and is about the size of the State of Missouri.

Population.—About 520,536 inhabitants, having more than doubled since 1860, in which year the population was about 221,000. The inhabitants are divided as follows: 368,166 are native-born, and 152,370 foreign-born. The sexes are very equally divided, being 268,172 males and 252,364 females.

Commerce.—Trade during the last five years, from 1879 to 1883, from the United States slightly increased, with the exception of 1883, in which year trade decreased considerably. The falling off was principally in lumber. Building, owing to the poor state of business, had entirely stopped, and lumber, which is largely used, was not wanted. This decrease will probably soon be regained, as a great impulse has been given during the year 1884 to house building, &c., and the importation of lumber has very much increased.

The following statement will show the comparative values of different articles imported into Uruguay during the year 1883 from the United States, England, France and Germany.

Articles.	United States.	England.	France.	Germany.
.....	$57,209	.....	$4,005	$76,899
.....	142	$175	285	58,376
.....	10	584	.....	14,287
.....	75	.....	13,200	.....
.....	373	1,559	2,127	176,383
.....	10,772	29,131	339,614	191,107
ırch.....	1,921	2,126	161	.....
iscuit.....	265	16,975	.....	668
.....	29,051	18	390	.....
.....	48	7,252	51	342
.....	372	945	2,052	5,568
.....	140	580	11	29,701
.....	.....	3,829	1,035	3,738
.....	348	47,832	31	853
.....	21,641	1,271,360	72,008	115,810
re cloth.....	.....	165,765	79,026	48,073
goods.....	.....	144,000	62,801	19,859
.....	7,601	11,060	.....	348
.....	.....	137,287	11,099	15,523
.....	.....	15,130	34,536	10,616
ocks.....	.....	32,264	24,476	40,921
andkerchiefs.....	.....	57,062	3,008	6,775
ade clothing	.....	7,169	14,072	3,774
on).....	40	469,920	104,320	244,549
ural and other machines	22,156	46,154	8,138	2,896

y more articles could be given, but the above will be sufficient to show that, to various causes, amongst the chief of which are want of steam communica- d high cost of production, the United States does not compete with her Euro- vals in those articles which she should naturally be able to sell cheaper.

importation into Uruguay has gradually increased. The valuation of mer- se imported in 1881 was $17,918,884. In 1882, $18,174,800; in 1883 it was ,311, showing an increase in 1882 over the year 1881 of 1.43 per cent., and an e in 1883 over the year 1882 of 11.81 per cent. Of the $20,322,311 imported in r 1883, the United States sent $1,173,633, England sent $5,515,091, France sent 98, and Germany, $2,029,860.

principal articles of exportation are wool, salted hides, dry hides, sheepskins, ir.

ollowing statements will show the comparative values of these articles taken United States, England, France, Germany, and Belgium during the year 1883. n is given in these tables because most of the shipments to that country are d for the north of France and Germany:

Articles.	United States.	England.	France.	Germany.	Belgium.
.....	$827,475	$317,958	$1,342,168	$557,719	$3,972,108
ides.....	41,000	1,924,415	1,098,407	63,325	664,605
se.....	1,137,817	93,770	428,185	.....	465
ins	.....	57,217	594,979	24,479	49,940
.....	45,152	12,380	86,840	.....	70,654

xportation from Uruguay has constantly increased. The value of merchandise d in 1881 was $20,229,512; in 1882 it was $22,062,934; in 1883 it was $25,221,664; g an increase in 1882 over the year 1881 of 9.06 per cent., and an increase in er the year 1882 of 14.31 per cent. Of the $25,221,664 exported during the year e United States took $2,187,162; England, $4,831,263; France, $4,230,562, and y, $689,087. Belgium took during 1883 goods to the value of $4,870,947, and f this went from Belgium to France and Germany.

The following is a statement showing the value of merchandise imported and exported by Uruguay to all countries since 1862:

Years.	Imports.	Exports.	Total.	Years.	Imports.	Exports.	Total.
1862	$8, 151, 802	$8, 804, 442	$16, 956, 244	1874	$17, 181, 672	$15, 244, 783	$32, 426, 455
1864	8, 384, 167	6, 334, 706	14, 718, 873	1875	12, 431, 408	12, 693, 610	25, 125, 018
1866	14, 608, 091	10, 665, 040	25, 273, 131	1876	12, 800, 000	13, 727, 000	26, 527, 000
1867	17, 657, 918	12, 077, 795	29, 735, 713	1877	15, 045, 846	15, 899, 405	30, 945, 251
1868	16, 102, 475	12, 139, 720	28, 242, 195	1878	15, 927, 974	17, 492, 159	33, 420, 133
1869	16, 830, 678	13, 930, 027	30, 760, 705	1879	15, 949, 903	16, 645, 961	32, 595, 864
1870	15, 003, 342	12, 779, 051	27, 782, 393	1880	19, 478, 868	19, 752, 261	39, 231, 069
1871	14, 864, 247	13, 334, 224	28, 198, 471	1881	17, 918, 884	20, 229, 512	38, 148, 396
1872	18, 859, 724	15, 489, 332	34, 349, 256	1882	18, 174, 800	22, 062, 934	40, 237, 734
1873	21, 075, 446	16, 301, 772	37, 377, 218	1883	20, 822, 311	25, 221, 664	45, 543, 975

All the foregoing statistics are taken from customs valuation, which is only two-thirds of the real value, and to arrive at the correct figures one-third, or say 33 per cent., should be added.

Jerked beef.—This production comes next to wool in importance, and ranks second in the list of exportations from Uruguay. There are twenty-three "saladeros" in Uruguay where this beef is prepared, fourteen of which are situated at points along the river Uruguay and nine on the bay of Montevideo, opposite the city. The killing season begins in November and ends in May, this being the time of the year when cattle are in good condition. The cattle are purchased on the "estancias," or cattle farms, for account of the "saladeros," and are collected together and sent down in droves to the different establishments. The beasts are given a short resting spell, and are slaughtered and the beef prepared by men long accustomed to the work, as it needs much care and experience to prevent the meat from spoiling. The fleshy parts of the animal are dexterously pared off in such a manner as to look like a succession of skins taken from the same animal. These sheets of flesh, which are about an inch in thickness, are then placed in the sun on frames to dry. As soon as perfectly dry and decomposition prevented, the beef is piled in large stacks, care being taken to place between each layer of meat sufficient salt. The piles are then left until the salt has been absorbed and the meat dry and, in the judgment of the saladeros, fit for shipment.

The amount of beef produced during the year 1883 was 34,793,581 kilograms, valued at $3,479,358, gold. Our principal markets are Brazil and the island of Cuba. The Government are making strenuous exertions to introduce this article into Europe, where samples have been sent, and it is expected that on account of its small cost—say about 4 cents, gold, per pound put on board in this port—a large trade will be done. The following statement will show the comparative quantity and value of this article shipped to the different markets during 1884:

Countries.	Quantity.	Value.	Countries.	Quantity.	Value.
	Kilos.			*Kilos.*	
Brazil	21, 766, 060	$2, 176, 606	Spain	3, 009	$301
Island of Cuba	10, 755, 512	1, 075, 551	France	11, 534	1, 153
Argentine Republic	173, 889	17, 389	Germany	10, 376	1, 038
England	1, 227	123	Various	2, 071, 974	207, 197

The beef sent to Europe is better prepared than that sent to Cuba and Brazil. In my opinion, a large trade could be done with the United States if the article were introduced there and the people taught how to cook it. Well prepared in the proper manner, it is very palatable and nutritious.

Navigation.—The progress of steam communication in the river La Plata is a very interesting study, and I regret that the time allowed for the presentation of this report will not permit of a more extensive treatment of the subject.

The first vessels authorized to carry the mails and passengers and specie from England were British men-of-war, viz, H. B. M. 10-gun brigs. These vessels ran for a considerable time between these countries and England, and had fixed days for sailing, and I believe were monthly packets. They were replaced by the Royal Mail Steamer Company, which ran a monthly steamer from England, and was afterwards made bimonthly. The next company to put on a line of steamers was the Messageries Impériales, a French company, which ran from Bordeaux to the river La Plata. Both the lines were subsidized by their respective Governments and are still in existence;

the latter is the Messageries Française. In 1883 the carrying trade between the river La Plata and Europe was done in 600 sailing vessels and 576 steamers, of which latter 203 were English, 118 French, 107 German, 48 Italian, 14 Spanish, with not one American steamer.

How to increase trade.—Rapid and frequent steam communication, the steamers to be adapted to carrying freight, with limited but good accommodations for passengers. Little or no duty on raw material, to enable the American manufacturers to produce goods as cheaply as their competitors in Europe. With quick transportation and cheap goods, the natural desire to do business with South America, and competition will soon give us banking facilities and whatever else may be needed for a large trade.

The European trade with these countries has grown to its present large proportions from small beginning, and ours must take the same course. South America, lying at our doors, is naturally our market, and with good legislation and experience must in time be entirely our own.

I have the honor to be, very respectfully, your most obedient servant,

THOMAS W. HOWARD,
United States Vice-Consul.

The COMMISSION TO THE CENTRAL AND SOUTH AMERICAN STATES.

THE ARGENTINE REPUBLIC.

[Extracts from the report of the Commission concerning its conferences with the Government of the Argentine Republic.]

Memoranda of topics to be considered at an interview between the Government of the Argentine Republic and the Commissioners of the United States.

(1) The advantage of closer commercial and political relations between the Argentine Republic and the United States.

(2) The United States is willing to lend its moral influence in any just manner to protect the peace and prosperity of the Argentine Republic.

(3) The advantages of holding an international congress of delegates from all the American republics to discuss and agree upon means to secure permanent peace between the nations of this hemisphere; to arrange a mode for the settlement of differences without an appeal to arms; to present a united resistance against the encroachments of European powers or their interference in American affairs, the doctrine of the United States being that American trade shall be confined as far as possible to American waters; that the American nations are capable of settling their own disputes, of determining what is best for their own interests, and should protect, defend, and encourage the development of each other.

(4) The advantage of a common silver coin to be issued by each of the American nations in a just proportion and be a legal tender in all commercial transactions between citizens of the several republics (to which the assent of Mexico, Venezuela, Costa Rica, Guatemala, Honduras, Ecuador, Chili, and Peru has already been given).

(5) The advantage of reciprocity between the Argentine Republic and the United States, by which the products of either country may be admitted free into the other when carried in Argentine vessels or those of the United States; such treaty to guarantee the protection of persons and property, and to provide for the settlement of all questions involving the same by arbitration.

(6) What can the Argentine Government suggest for the Government or the people of the United States to do to increase trade between the two republics.

The formal topics submitted for consideration at our conference with President Roco of the Argentine Republic and his Government were all cordially approved and accepted by them. Nowhere has the Commission met with more genuine cordiality, and nowhere has the desire for closer political and commercial relations with the United States been so apparent as in the Argentine Republic.

That country aspires to be to South America what our country is to the northern continent, and is making very rapid strides toward such a position. They imitate us in all their institutions, place their children under teachers brought from the United States, and in their national policy endeavor to follow as closely as possible the path which we have found leading to prosperity and internal development.

The President earnestly desired more intimate commercial relations with the United States, but said that it was useless to expect such trade without transportation facilities.

The Argentine Government was willing to do as much as the United States in giving financial aid to a steamship company that would sail vessels between the ports of the

two countries, and he hoped that our Congress would do something at once, so as to make the markets of the United States accessible to the Argentine Republic. He looked to the United States to lead in this as in other measures, and we were requested to assure our Government that his own would immediately follow and do its share in any movement that would increase trade or unite the two countries in closer political relations.

To come back to the fact stated in the commencement of this report—the small trade we have in manufactured goods with a people who have for us such kindly feelings—a mass of statements on this point is herewith submitted from gentlemen of the largest experience and information on commercial questions. We need not refer to them separately, though each one has its own peculiar thought. That of Mr. Bowers comes from a successful American merchant; that of Mr. Christophsen is that of the consul of Russia, Sweden, Norway, and Denmark at Buenos Ayres, and also agent for several steamship lines. The tables of shipping, tonnage, and nationality for the Plate River and Europe, the statistics of the imports, percentages, and nationality whence received of the Argentine Republic for a series of years, and the general review of the steamship lines and their subsidies, given by Mr. Christophsen, will be found useful and suggestive. And in this connection we refer to the proposed establishment of the Mexican line of steamers between Vera Cruz and the La Plata ports. The aid given it by the Government of Mexico will be found in a short extract taken from the New York Marine Register, and a full transcript of the extract will also be found in the accompanying papers.

We also call attention to two extracts from the message of the Executive of the Republic, one in 1879 and the other in 1882, on the subject of steamship lines between the Argentine Republic and our own country. They not only prove the desire of these people to become on closer terms with us, but their willingness to aid in that direction in a manner very liberal, considering their European connections. One of these extracts forcibly presents the great respect in which our country is held by the Argentine Government.

THE ARGENTINE IMPORTS.

The imports of the country for 1883 exceeded $80,000,000; probably for 1884 they will reach $85,000,000. Of this trade our country only has 6¼ per cent. And of this small per cent. a mere fraction consists of articles into which much labor has gone. Lumber covers more than one-third of it; kerosene over one-ninth. We send bulky articles, like agricultural machinery and railroad supplies, and on this point we again call attention to the statement of Mr. Consul Baker, wherein he shows how feeble is our commerce in that great list of manufactured goods in which our country so much excels. There is but one course for this diminished trade, one thing without which our commerce on these coasts will always languish. It is that one mentioned by every one here from the president of the Republic, the minister of foreign affairs, to the most plain and practical man of business—steamship communication, frequent and direct, and American, between our ports and those of this country. This once established, placed on a sure and permanent basis, under fair limitations as to freights and passage so that our merchants and manufacturers can lay down their goods and through agents or personally visit these shores at no greater expense than their European rivals, and the beginning of the supremacy of American goods in the great valley of the La Plata is assured. Toward this consummation will confederate the kindly feelings of the people and Government toward the Republic whose example they follow and revere.

The undoubted superiority of most of our goods; the greater fidelity that enters into them; their adaptability to the wants of the people, all will tend to the same result. Finally, the address and push of the commercial classes, with a fair chance and an open market, will outstrip in many ways the slower processes and methods of their Old World competitors.

THE STEAMSHIP QUESTION.

The fact that the Belgian Government has just concluded a subsidy convention with Lamport & Holt to secure three steamers each way monthly between Antwerp, Rio Janeiro, and Buenos Ayres, at a cost of $50,000 annually for fifteen years and exemption from all port dues in Antwerp, shows how highly that little kingdom appreciates the nature of these connections, and also tends to establish the necessity of Government aid in our case where we have no present steamship connections to begin with. Doutless the investment will prove a good one for Belgium. It is the only way she can hope to build up trade with the South American ports. We incline to the belief that in case of aid being granted on the part of our Government toward such lines it also should cover the port of Rosario. Lamport & Holt's steamers, drawing 18 feet and under, already visit that place, and it is beyond a reasonable question that within

a short time the bar which now keeps vessels of greater draught from running up to the moles of Rosario will be opened. This being done the city must assume very great importance; indeed, it has that now. But with improved water communication its trade with the interior, even far into Bolivia, will take a long forward step. The port of Buenos Ayres is not yet what it should be; heavy steamers anchor out of the town many miles, and the pamperos are as troublesome here as at Montevideo. The project for improving the harbor covers an expenditure of many millions of dollars, and its realization lies far in the future.

Boga de Riacheulo, a new port, some three miles from the city, is advantageous for smaller vessels, but its use for ocean steamers is limited to those of 20 feet draught; and even these more often receive cargo from the city front. Whether Rosario is or is not embraced in the La Plata ports to be visited by our steamers is perhaps a matter that will follow the wants of commerce when once the lines are well fixed. In this building up of a merchant marine between the United States and the La Plata Valley, beyond its immediate commercial aspect there is brought into view its effect in drawing more firmly the kindly ties that bind our countries into friendly alliance. As we have before noted, this line will unite the power of several countries in its promotion. The Empire of Brazil already in part sustains a monthly line to its ports from New York, and it would undoubtedly increase its contribution for greater service. The Oriental Republic of Uruguay would concede valuable harbor privileges and port exemptions, and the Argentine Republic can be relied on for a very liberal financial contribution, and above these amounts our own country should grant aid so liberal and for such time as to put competition out of the question. A line thus supported by a union of the several powers would tend to intimate international and commercial relations between the interested countries. Mexico with her few manufactures and exportable products finds it worth her while to extend Government aid to establish a line of steamers to these South American ports, and it is quite certain her policy will give her national character and her products increased predominance in all those harbors where her flag shall go.

CONFERENCE WITH THE GOVERNMENT.

It was a source of regret that we could not accept the courtesy of the Argentine Government in tendering to us freedom of the railroads, so that we might from personal observation form an idea of the great resources of the land. The severe storms, one on the Pacific coast and one at Montevideo, detained us five days beyond the schedule time, and this shortened that much of our visit to this country. It is probable, however, that we should not have attained any fuller or more accurate information than that herewith presented; but it would have proven a source of gratification to ourselves. We were formally received by the President and the minister of foreign affairs at the palace, at which interview we read an address, a copy of which will be found herewith. The President responded orally; a translation of his remarks is also transmitted herewith. Before our reception the minister of foreign affairs held a long conversation with us on the subject of our mission. He stated fully the views of his Government on the main topics which were afterward reaffirmed by the President.

The project of a convention of the countries of Central and South America and the United States meets the hearty approval of this Government. The question of a common silver coin should, in its opinion, be referred to that body, though the desirability of establishing such a coinage is very strongly advised by it.

A reciprocity treaty would be willingly formed, if a basis for it could be found. The chief product of the Republic, and one which might have most use in the United States, is wool, hardly any of which now seeks the ports of our country. But on this point we were not able to offer any suggestion looking toward the abolition of the duty upon it in our country. When our country chooses to admit wool free of duty from South American countries, then, with all of them, save possibly Chili, reciprocity treaties advantageous to both sides can be negotiated. Until then the matter need not be discussed.

On the leading question—how can better relations, friendly and commercial, between the countries be established?—both minister and President returned the same answer—create frequent steamship communication. They expatiated at some length on its benefits to both lands. They saw in it a better acquaintance on their own part, their leading men, of the habits and policy of our country, and with that would come greater desire to rival us in the institutions of freedom. They believed their own people would take on broader and more generous views when they had once come into close business contact with our own; and then, too, they felt that our people would bring to the Argentine Republic capital and progressive ideas when they should be informed of the great future lying before it. They claimed that if the United States thoroughly comprehended the vastness of undeveloped wealth of this region, its

money and sons would flow hither in streams of profit to each side. Hence it was that the Argentine Government stood ready, at any time the United States should foster the scheme, to unite with it on just terms in establishing frequent and cheap steam communication between the respective countries. The earnestness of both the President and minister on this question was very manifest.

The kindness with which they spoke of the few American merchants and business men in their midst, and their appreciation of their high character and the good name they had given our country was very cordial. Such men they were glad to welcome to this country. The President repeatedly thanked our Government for sending this special message of good will, and he expressed a regret, which we heartily felt also, that our time was so limited.

It will be a great mistake if the Argentine Republic is not attached to the United States by far stronger ties than exist to-day. The way to it is easy and open.

[Inclosure A.]

EXPORTS AND IMPORTS OF THE ARGENTINE REPUBLIC.

Imports from 1876 *to* 1883.

From—	1876.	1877.	1878.	1879.
Germany	$1, 796, 354 38	$2, 056, 809 68	$2, 203, 875 75	$2, 292, 574 44
West Indies	230, 180 61	162, 456 85	97, 407 62	132, 775 33
Belgium	1, 442, 539 31	1, 801, 443 58	2, 853, 755 61	3, 184, 309 94
Bolivia	65, 718 04	75, 853 02	60, 579 58	354, 511 55
Brazil	2, 213, 902 48	2, 549, 035 89	2, 173, 811 65	2, 298, 410 72
Canada	.....	.....	.....	.....
Chili	906, 118 36	573, 009 28	523, 019 91	332, 845 60
Spain	2, 158, 886 66	2, 571, 888 10	2, 528, 989 65	2, 249, 608 44
United States	1, 943, 466 21	2, 344, 301 99	2, 856, 047 91	3, 921, 379 81
France	8, 361, 291 27	8, 198, 792 89	8, 985, 110 88	9, 408, 982 88
Italy	2, 381, 722 36	2, 059, 970 65	2, 611, 763 80	2, 718, 586 88
Holland	505, 346 48	501, 814 54	381, 903 55	306, 548 25
Paraguay	736, 964 47	669, 657 14	590, 783 68	748, 378 75
Portugal	42, 673 66	38, 112 51	55, 361 98	40, 094 46
United Kingdom	8, 967, 146 12	9, 847, 960 18	11, 901, 968 75	12, 431, 467 48
Sweden	.....	.....	.....	.....
Uruguay	1, 856, 048 11	3, 112, 797 86	2, 067, 369 73	2, 191, 326 56
Various	2, 461, 664 28	3, 899, 519 49	3, 905, 755 00	3, 749, 791 38
Total	36, 070, 022 80	40, 443, 423 67	43, 759, 125 05	46, 363, 592 50

From—	1880.	1881.	1882.	1883.
Germany	$2, 365, 151 78	$3, 527, 570 42	$4, 764, 622 50	$7, 028, 051 00
West Indies	135, 712 06	88, 724 25	124, 379 20	109, 175 00
Belgium	2, 483, 105 99	3, 501, 508 67	2, 869, 259 50	3, 261, 077 00
Bolivia	460, 804 54	82, 855 93	132, 977 60	65, 977 00
Brazil	2, 410, 220 36	2, 675, 141 05	2, 153, 769 40	2, 181, 720 00
Canada	.....	.....	.....	29, 860 00
Chili	520, 242 34	23, 565 22	13, 691 11	242, 617 00
Spain	2, 474, 287 83	3, 425, 559 55	2, 906, 155 91	3, 790, 760 00
United States	3, 224, 743 53	4, 268, 110 23	5, 094, 764 20	4, 933, 054 00
France	8, 292, 872 00	10, 279, 793 12	12, 186, 824 31	15, 418, 997 00
Italy	2, 618, 973 39	2, 817, 055 20	2, 916, 377 70	3, 480, 321 00
Holland	356, 239 26	465, 525 87	1, 005, 444 70	549, 461 00
Paraguay	829, 556 81	999, 691 03	1, 141, 158 51	1, 314, 892 00
Portugal	50, 069 22	43, 405 25	36, 740 11	28, 080 00
United Kingdom	12, 506, 923 67	16, 035, 277 03	19, 554, 932 57	38, 695, 963 00
Sweden	.....	.....	.....	12, 009 00
Uruguay	3, 237, 586 86	3, 266, 950 84	2, 892, 911 70	4, 443, 447 00
Various	3, 699, 390 53	4, 205, 193 46	3, 451, 035 70	2, 849, 347 00
Total	45, 535, 880 37	55, 705, 927 13	61, 246, 044 72	80, 435, 828 00

Proportion of imports from 1876 *to* 1883.

From—	1876.	1877.	1878.	1879.	1880.	1881.	1882.	1883.
	Per ct.	*Per ct.*	*Per ct.*	*Per ct.*	*Per ct.*	*Per ct.*	*Per ct.*	*Per ct.*
nany	5.0	5.1	5.0	2.7	5.2	6.3	7.8	0.7
t Indies	0.7	0.4	0.2	0.3	0.3	0.2	0.2	0.1
ium	4.0	4.5	6.4	6.9	5.4	6.3	4.7	4.1
ria	0.2	0.2	0.1	0.8	1.0	0.2	0.2	0.1
il	6.4	6.3	5.0	5.0	5.3	4.8	3.5	2.7
	2.5	1.4	1.2	0.7	1.1	0.4	.....	0.3
a	6.0	6.4	5.8	4.9	5.4	6.1	4.7	4.7
ed States	5.4	5.7	6.5	8.5	7.1	7.6	8.3	6.1
ce	23.2	20.3	20.5	20.3	18.2	16.4	19.9	19.2
	6.6	5.1	6.0	5.9	5.7	5.0	4.7	4.3
and	1.4	1.2	0.9	0.7	0.8	0.8	1.6	0.7
guay	2.0	1.6	1.3	1.6	1.8	1.8	2.0	1.6
ed Kingdom	24.9	24.3	27.2	28.8	27.5	28.7	31.9	38.3
guay	5.1	7.7	4.4	4.7	7.1	5.8	4.7	5.5
ous	6.9	9.8	9.2	10.2	8.1	7.6	5.8	3.6
Total	100	100	100	100	100	100	100	100

uantities and values of the imports of the United States from the Argentine Republic.

ar ed e —	Fur skins, undressed.	Hair, unmanufactured.		Hides and skins, other than furs.	Fancy goods.	Wool, unmanufactured.		Other merchandise.	Total imports.
		Quantity.	Value.			Quantity.	Value.		
		Pounds.				*Pounds.*			
...	.....	2,050,808	$424,727	$3,601,650	$30,364	8,249,659	$1,020,737	$85,489	$5,162,966
...	.....	1,060,697	263,567	4,256,334	12,183	16,741,420	1,853,105	29,480	6,414,669
...	$4,269	1,692,607	442,348	3,740,505	32,183	23,333,237	2,605,956	215,314	7,040,575
...	85,594	1,683,913	486,424	4,774,462	142,697	24,731,834	3,608,147	72,658	9,169,982
...	4,526	1,491,386	470,511	3,512,311	133,352	17,449,563	3,407,187	59,856	7,587,843
...	897	1,094,237	309,258	2,695,118	127,140	8,502,627	1,276,456	128,801	4,537,670
...	41,293	1,079,039	278,879	4,126,039	117,666	8,999,693	1,241,916	28,916	5,834,709
...	105,618	1,260,837	308,441	1,969,923	94,384	7,376,249	1,030,278	94,092	3,602,736
...	38,026	740,961	130,620	2,071,161	58,163	8,166,025	1,056,262	95,077	3,449,309
...	59,859	974,431	163,964	3,380,747	78,973	9,489,121	1,191,429	73,044	4,948,016
...	59,138	1,235,277	196,181	2,377,385	55,205	6,929,514	791,883	38,313	3,518,105
...	250,342	1,875,335	314,221	3,865,168	86,498	12,278,776	1,625,878	72,968	6,214,575
...	33,174	1,320,004	227,202	4,261,833	39,214	6,163,223	1,015,685	42,132	5,669,240

uantities and values of the exports from the United States to the Argentine Republic.

	Agricultural implements.	Cotton manufactures.	Drugs, chemicals, medicines, acids, ashes, and dyestuffs.	Iron and steel and manufactures of same.	Naval stores.	Oils, mineral, refined.		Provisions.	Spirits, distilled from grain.	
						Quantity.	Value.		Quantity.	Value
						Gallons.			*Gallons.*	
...	$147,494	$116,730	$84,568	$291,767	$23,817	141,994	$51,565	$50,114	.....	.....
...	186,913	119,522	50,230	224,636	8,315	439,146	142,351	83,625	.....	.....
...	64,605	47,280	40,681	121,692	6,994	574,204	161,726	46,210	.....	.....
...	103,680	38,680	63,628	152,391	15,433	478,423	141,712	32,974	2,029	$1,414
...	227,107	99,165	77,252	461,727	35,113	986,350	295,327	70,782	127,751	59,583
...	112,889	74,634	65,641	359,578	25,545	669,122	143,112	41,387	110,271	54,171
...	73,933	62,261	55,858	195,219	17,856	290,625	54,857	39,644	49,698	25,941
...	53,757	37,493	62,463	173,859	14,110	769,795	144,962	51,073	23,113	9,000
...	78,772	77,501	16,440	68,127	26,877	862,147	231,231	27,320	230,905	83,380
...	99,137	203,048	39,600	166,417	27,881	1,662,389	283,810	34,644	444,848	162,949
...	203,078	157,872	49,705	153,812	7,034	950,320	118,781	25,033	490,740	150,987
...	105,516	133,737	61,687	168,418	33,356	1,445,692	161,091	41,186	445,678	120,454
...	221,052	184,575	56,170	272,175	32,207	1,172,329	150,882	30,935	1,065,871	217,612

Quantities and values of the exports from the United States, &c.—Continued.

Year ended June 30—	Sugar, refined.		Tobacco and manufactures of same.	Wood and manufactures of same.	Other merchandise.	Total exports of domestic merchandise.	Total exports of foreign merchandise.	Total exports of merchandise.
	Quantity.	Value.						
	Pounds.							
1869	98,484	$15,248	$23,138	$852,484	$578,164	$2,235,089	$205,154	$2,440,243
1870	201,773	28,940	63,698	486,130	885,740	2,281,100	188,766	2,469,866
1871	100,161	14,411	58,675	184,060	457,032	1,203,366	89,110	1,292,476
1872	197,640	24,541	97,846	282,370	363,613	1,324,282	135,382	1,459,664
1873	966,621	106,585	166,659	736,492	649,669	2,985,661	249,331	3,234,992
1874	420,910	42,935	108,698	576,899	663,014	2,478,513	155,450	2,633,963
1875	1,043,709	115,517	80,569	276,830	302,809	1,301,294	138,324	1,439,618
1876	3,355,851	363,782	118,427	225,921	264,343	1,519,190	65,862	1,585,052
1877	1,558,636	178,168	116,190	102,532	122,580	1,129,168	97,614	1,226,782
1878	3,060,259	332,684	157,398	197,795	308,224	2,013,587	138,522	2,152,109
1879	5,632,623	481,180	80,804	294,733	300,382	2,023,401	103,722	2,127,123
1880	3,088,094	269,385	108,040	265,995	310,636	1,779,501	103,340	1,882,841
1881	3,326,840	298,157	132,201	320,546	341,671	2,258,183	169,680	2,427,863

STATEMENT OF PETER CHISTOPHESON,

(Of Buenos Ayres, merchant, and consul at Buenos Ayres of Denmark, Russia, and Norway and Sweden.)

The present condition of steam communication with the United States is highly unsatisfactory.

No direct connection exists between this river and ports of the States, except through occasional steamers of the Lamport & Holt line, and these are mainly adapted for cargo, while passengers bound for the United States have to embark by way of Europe or take a steamer hence to Rio Janeiro, and from there proceed in one of the three steamers belonging to the United States and Brazil Mail Company, or by the Royal Mail steamers lately established between Rio and New York.

While thus the communication from here to the States is imperfect, there is not a single steamer leaving that country for this river. Passengers bound to South America have to go by the way of Europe or to avail themselves of the monthly steamers dispatched by the United States and Brazil Company to Rio.

As for cargo it is impossible to have it shipped in the States for these ports, except by sailing vessels or via Europe, as the heavy charges in Rio make transshipment in that port out of the question. This state of things is the more to be regretted considering the enormous increase of trade during the last years and the general development of this country, and the importance assumed by the steam navigation with Europe.

Up to the year 1862 no direct line of steamers united this country with any European ports, and communication with steamers was entertained only by the aid of two monthly boats, one of the Royal Mail Company from Southampton to Rio, with auxiliary steamers running between that port and Buenos Ayres, and one of the French, then Messageries Impériale, and to-day Messageries Maritimes. In 1862 these two companies started almost simultaneously one direct steamer from Southampton and Bordeaux to this river, while Messrs. Lamport & Holt organized a service of cargo boats. Since then several French, English, and Italian companies were started, but it is only from the year 1871 that a considerable increase has been noticed in our steam communication.

At present as many as 30 regular mail steamers arrive every month, while double this number visit our port during the busy seasons.

This increase has been effected without any effort or pecuniary sacrifice on the part of the Government, and has only obeyed the steady development of the country's commerce, and the inducement held out as a field for immigration from Europe.

It must be observed that some of the European governments have assisted shipowners by granting subsidies to certain steam lines, but these subventions have been of a general nature and not exclusively for this trade. The Royal Mail Steam Company and the Pacific Steam Navigation Company have been allowed an annual sum for carrying the mails. Messrs. Lamport & Holt have a contract with the Belgian Government, of which the principal conditions are as follow in the printed contract *inclosed.*

The French steamers enjoy the benefits of the bounty law, put into force in 1881, ranting a premium to all French steam and sailing vessels, which is fixed at 1.50 rancs for every 1,000 miles done for new vessels on leaving the building yard, which remium decreases annually as follows: .075 franc for wooden vessels; .075 franc for nixed vessels (wood and iron); .05 franc for iron vessels. Besides this, a special llowance is granted to the steamers of the Messageries Maritimes of 100,000 francs or each steamer each trip running to the River Platte (twice a month). Besides his allowance no other subsidy is given either to English, German, or Italian lines.

The Argentine Government, understanding the importance of a line of steamers beween this country and the United States, and anxious to contribute to its establishnent, issued a decree so far back as 1865 granting a subsidy of $20,000 a year to the rst line that would solve the problem. This sum not being found adequate to meet he expenses of a regular line of steamers, at least until the traffic between the two ountries had assumed larger proportions, the law remained a dead letter. During the dministration of General Sarmiento the matter was again taken into consideration rithout its leading to any results, and it was only during the last year of the Presdency of Dr. Avellaneda that an American Company volunteered to make a contract o establish monthly steamers against a subsidy of $100,000 a year. The executive ower sent a message to congress to this effect, but it was never discussed; the actual resident, General Roca, renewed its request to congress, which is still in abeyance.

One of the reasons why congressmen are rather lukewarm on the subject, in spite of he utility of such a line, is the fact that the Government of the United States shows o little interest in the matter, refusing to give any subsidy, and even imposing prosectional duties on our principal staple article, wool, to an extent to render its export o the States impossible. There is no doubt that the Argentine Government would e willing to grant a subsidy of about $100,000 yearly for a period of, say, ten years, f the American Government granted at least a similar amount, and my impression is hat as long as the trade between the two countries is limited to its present state, and ntil the frequent intercourse has fostered fresh relations, a sum of, say, $20,000 per ound trip for each steamer would be required to guarantee owners against loss.

The Brazilian Government having granted a subvention to an American line some ears ago, a regular service is now kept up between New York and Rio, with interediate Brazilian ports.

It might be convenient for any new company starting to amalgamate its interests rith this line, especially if a bimonthly service were organized.

In connection with the above it might be expedient to consider the convenience of vailing of the law, recently issued by the Mexican Government, granting a considerble yearly subvention for a line of steamers between Vera Cruz and Buenos Ayres, nd as the Government of that Republic does not make it a condition that the steamrs shall carry the Mexican flag an American line might easily obtain this contract.

In this way a perfect communication between the principal countries of North and outh America might be established on a sound and safe basis of equal interest from olitical as well as from a commercial point of view. The ports to call at might be ew York, New Orleans, Vera Cruz, Havana, St. Thomas, Bahia, Pernambuco, Rio, ontevideo, and Buenos Ayres, with transshipment to Paraguay and Bolivia. It ould be a matter of special study to fix the ports of call of each of the two monthly teamers as well as the itinerary of the homeward voyage in order to profit of the xports from this river to Brazil, Havana, and the States as from the Brazilian ports.

This subject is of vital importance, especially to the Government of the United tates, as a regular line of steamers more than anything else is calculated to increase orth American influence and supremacy in these countries, making them independnt of the European markets.

Steam navigation between the River Plate and Europe.

ame of company and where from.	Names of steamers and tonnage.					
ENGLISH.		*Tons.*		*Tons.*		*Tons.*
oyal Mail Steamship Company (2 steamers per month)—from Southampton, Antwerp, Brazil.	Tagus	1,892	Mondego	1,549	Avon	1,403
	Tamar	1,811	Minho	1,491	Elbe	1,773
	Trent	1,874	Neva	1,882	La Plata	2,147
	Guadiana	1,597	Derwent	1,605	Humbert	2,371
.llan Line (9 steamers per year from October to March)—from Antwerp and Havre.	Canadian	1,869	Corinthian	2,560	Lucerne	1,252
	Phœnitian	1,493	B's Ayrean	2,560	Waldensian	
	Nestorian					
amport & Holt (6 to 10 steamers per month)—from Liverpool, Antwerp, and Brazil.	Archimedes	966	Bessel	1,243	Biela	1,491
	Buffon	1,504	Cuvier	1,499	Dalton	1,332
	Delambre	988	Donati	887	Euclid	995

Steam navigation between the River Plate and Europe—Continued.

Name of company and where from.	Names of steamers and tonnage.					
ENGLISH—Continued.						
		Tons.		*Tons.*		*Tons.*
Lamport & Holt (6 to 10 steamers per month)—from Liverpool, Antwerp, and Brazil—Continued.	Flaxmann	1,417	Galileo	1,446	Gassendi	861
	Halley	1,210	Handel	1,293	Herschell	1,274
	Herclius	1,682	Hipparchus	1,251	Hogarth	1,340
	Holbein	1,338	Horrox	1,101	Humboldt	1,059
	Kepler	1,750	Lalande	679	Laplace	901
	Laplace	921	Lassell	1,376	Leibnitz	1,455
	Lemnos	1,343	Lis-card	1,278	Maskelyne	1,678
	Meuling	633	Memnos	823	Mozart	1,303
	Nasmyth	1,303	Olbees	1,289	Pascal	1,505
	Plato	1,004	Ptolemy	891	Rosse	1,063
	Rubens	1,265	Sirius	1,410	Strabo	1,281
	Teniers	1,018	Tycho Brahe	1,257	Vandyck	1,098
	Norfolk	1,158				
Pacific Steam Navigation Company (2 steamers per month to Montevideo)—from Liverpool, Spain, Brazil, and western coast.	Iberia	4,671	Araucania	2,877	Valparaiso	3,575
	Aconcagua	4,106	Magellan	2,856	Potosi	4,218
	Cotpaxi	4,027	Patagonia	2,866	Britannia	4,129
	Liguria	4,666	Galicia	3,829	John Elder	4,151
Walford Line (1 steamer per month)—from Antwerp and Liverpool.	Pante	1,688	Petrarch	1 297	Tasso	1,281
	Pelago	1,279				
Castle Line (1 steamer per month)—from Antwerp and Liverpool.	Castle Bank	1,231	C. Hill	1,184	C. Craig	1,274
	Castle Gate	1,180	C. Dale	1,532	C. Edeu	1,383
Clyde Line (1 steamer per month)—from Antwerp and Liverpool.	Titania	1,405	Cynthia	1,409	Colina	1,297
	Marana	2,500				
Nautilus Company—from Antwerp and Liverpool.	M. Branch		Pine Branch		Palm Branch	
GERMAN.						
		Tons.		*Tons.*		*Tons.*
Hamburg Steamship Company (2 steamers per month)—from Hamburg, Antwerp, Brazil.	Santos	1,610	Rio	1,274	Bahia	1,413
	Petropolis	1,495	Buenos Ayres	1,564	Argentina	1,414
	Bavario	1,379	Corrientes	1,456	Holstein 2	1,163
	Montevideo	1,476	Hamburg	1,284	Lissabon	1,500
	Ceard	1,471	Valparaiso	1,543	Uruguay	1,506
	Paranagua	1,291	Pernambuco	1,523		
North German Lloyd's (2 steamers per month)—from Bremen, Hamburg, Brazil.	Berlin	2,082	Hannover	1,794	Habsburg	1,876
	Braunschweig	2,150	America	1,763	Wurtemberg	1,916
	Hohenstaufen	1,905	Baltimore	1,585	Ohio	1,742
	Hohenzollern	1,900	Frankfurt	1,787	G. Werder	1,820
	Hermann	1,984	Strassburg	1,694	G. Bismark	1,422
	Koeln	1,863	Condor	1,873	Leibzig	1,981
	Salier	1,984	Weser	1,942	K.P.T. Wilhelm	1,569
Kosmos Line (1 steamer per month) (2 to Montevideo)—from Bremen, Hamburg, West Coast.	Kanbyses		Meuse		Sakkarah	
	Tolmes		Theben	1,216	Memphis	
	Setos		Ramses	1,166	Ibis	1,006
	Weco		Urada		Luxor	
FRENCH.						
Messageries Maritimes (2 steamers per month)—from Bordeaux, Lisbon, Brazil.	Congo	2,444	Equateur	2,497	Wiger	1,346
	Gironde	2,065	Orenoque	2,480	Amazone	2,072
	Senegal	2,055				
Chargeurs Réunis (3 steamers per month)—from Havre, Bordeaux, Dunkirk.	Parana	2,537	Portena	1,462	V.de B. A	1,553
	Uruguay	2,530	Rio Negro	2,536	V. de Mont	1,559
	Dom Pedro	1,957	San Martin	1,778	V. de Para	1,559
	Pampa	1,977	Belgrano	1,646	V. de Bovaio	1,555
	VdeRioJan'ro	1,008	V.deSanNic'la	1,550	V. de Maranha	1,775
	V. de Victoria	1,775	V.deParanaha	1,559	Sullya	954
Transports Maritimes (2 steamers per month)—from Mediterranean.	Bourgogne	1,474	Poitou	1,404	Bearn	2,977
	La France	2,428	Provence	2,890	Savoie	1,726
Apesteguy Bros.—from Bordeaux	Varconia	707				
Fabre & Co.—from Bordeaux	Diolibah	1,092	Patria	927		
SPANISH.						
Antonio Lopez & Co.—from Mediterranean.	Vidal Sala	1,600	Ana Sala	1,452		
ITALIAN.						
La Veloce (2 steamers per month)—from Mediterranean.	N. America	2,003	S. America	1,260	Europa	1,291
	N. Bruzzo	2,300	Napoli	1,138		
Floria Rubatino and Baggio Co. (2 steamers per month)—from Mediterranean.	Perseo	2,402	Inizativa	1,299	Manila	1,384
	Orione	2,425	Abissinia	1,584	Singapore	1,984
	Sirio	1,337	Bonnida	1,342	Entella	1,432
	Scrivia	1,551	Bengala	1,468	Biragno	1,221
Piaggio & Co. (2 steamers per month)—from Mediterranean.	Italia	1,100	Maria	1,180	R. Margherita	1,528
	Umberto 1°	1,080	Adria	1,350		

STEAMSHIP SERVICE WITH BELGIUM.

The agreement between the Liverpool, Brazil and River Plate Steam Navigation Company, familiarly known as the Lamport & Holt Line, and the Belgian Government, for the carrying of the mail, is as follows:

The company undertake to establish a first-class steamship line between Antwerp, Rio Janeiro, Montevideo, and Buenos Ayres, three steamers a month each way, the steamers being required to call at certain ports designated by the Government of Belgium on certain days also to be designated by the Government, making the distance between Antwerp and Buenos Ayres in 35 days. The contract extends to 15 years, and the company receives a guarantee of 250,000 francs per annum, and is exempted from all port dues at Antwerp, and has the same privileges in South American ports.

In 1881 a company, called "The Canadian and Brazilian Direct Mail Steamship Company," was organized by English bankers and received a subsidy of $50,000 from the Canadian Government and $50,000 from the Government of Brazil for the establishment of steam communication between Montreal and Rio Janeiro. The company was organized and run for two or three months, employing four steamers of 2,200 tons burden each, but for some reason the steamers were withdrawn and the project abandoned.

[Extract from the Buenos Ayres Herald.]

The Mexican Government has granted a concession to the Mexican South Atlantic Colonization and Mail Steamship Company to establish a line of steamers between Vera Cruz and Buenos Ayres, touching at St. Thomas, Rio de Janeiro, and points in Uruguay and Paraguay. The steamers will make monthly round trips, and the company will receive a subsidy for each trip of $18,000 for the first ten years, $16,000 for the second ten years, and $14,000 for the third ten years, carrying the mails free, and Government employés, civil and military, for half-fare. The company will be allowed to bring 300 colonists monthly, and will be compelled to bring at least 500 yearly. They will receive two-thirds fare for each colonist the fare not to exceed $25. In case of a foreign war, the Government will have the privilege, if the company suspended their trips, of using one-half the vessels belonging to the company as war-ships, paying $7,500 monthly for their use. The vessels of the company must be of the first class, four of 2,000 tons each and two of 1,000 tons each. After the Government shall have paid the subsidy for seven years, the company will be obliged to deliver to the Government a war-transport of 2,000 tons, free, and after fourteen years another vessel of the same class.

STEAMSHIP COMMUNICATION WITH THE UNITED STATES.

[Translated from the message of the Executive power in 1879 to the National Congress of the Argentine Republic.]

To the honorable National Congress:

It was always a persistent design of the public powers of the nation to establish the direct navigation between the ports of the Republic and the United States, in order to thus complete our system of exterior communication.

In 1865 the Congress passed a law granting a subsidy for this object.

The President, Sarmiento, announced in one of his annual messages that this subsidy would at last be applied, and the actual administration renewed for two years this business, asking Congress to augment the subsidy granted, and which had proved insufficient, when all was suspended, because the company that had undertaken this enterprise could not obtain from the United States Senate the pecuniary auxiliary that was indispensable for its attempt.

For the first time, after an expectation so long delayed, a responsible company directed by the firm that constructs vessels of the best reputation in the United States, and it has conditions to realize the communication that have been sought with so much reason.

The executive power considers it useless to dilate on the considerations upon the advantages of a direct communication with the most powerful, commercial, and free nation that has best realized the forms of government that we have accepted, following precisely its example. This other market that opens itself is a new interchange for the men, the ideas, and the products.

But the conditions of the enterprise are onerous, and the executive power complies with its duty in submitting to the honorable Congress in order that it resolve itself upon the subject.

The enterprise asks 10,000 francs monthly, and the maintaining of this subsidy for ten years. After divers conferences with the minister of the interior it has reduced its conditions to 100,000 francs per annum, the subsidy lasting seven years.

The executive power incloses with this message all the antecedent writings of the business.

May God guard the honorable Congress of the nation.

N. AVELLENADA.
B. LORRILLA.

Proposition of the company.

The Argentine Government, in view of the services which this line lends, that will be the first step in uniting the Republic with the grand North American Continent, will pay to Messrs. John Roach & Son the sum of $8,000—eight thousand hard dollars, gold—for every round voyage for the term of eight years, paid on the return of each steamer from the round trip, with a corresponding receipt from the administration of post-offices on its having duly delivered the mails.

The steamers will be subject to the laws and ordinances that exist in the Republic for steam packets; they shall carry the correspondence of the Argentine Republic to whatever point at which they touch without any remuneration; making a rebate of 33⅓ per cent. in prices of passage of the immigrants, and 50 per cent. on the passage of each employé of the Goverment who can justly show that his voyage is on account of the Government. They will also make a rebate of 25 per cent. on whatever freight they may carry on behalf of the Government, such as materials of war, &c.

[Translation from the message of the Executive power to honorable National Congress of the Argentine Republic, 1882.]

To the honorable Congress of the nation:

Our commerce with the United States of North America has taken a favorable development that it is convenient to encourage by means of the establishment of a regular line of communication.

This necessity has been felt since some time past, and a law of 1865 destined the sum of $20,000 (fuertes) to subsidize the first line of steamers that was established between the ports of Buenos Ayres and New York. The Executive power does not believe it necessary to enlarge in considerations upon this subject, that, if promptly favored, is bound to influence in a most powerful manner the national commerce.

The interests of our country will be benefited by a more intimate contact with the great producing and manufacturing nation of North America, in whose markets the Argentine products will find easy and abundant collocation.

An enterprise has solicited of the Executive power its consent for a subsidy with the object of establishing this line of communication, and he remits to your honorable body the petition presented by it.

In view of the preceding considerations, the Executive power solicits of your honorable body the sanction of the accompanying project.

May God guard your honorable body.

ROCA.
BERNARDO DE IRIGOYEN.

The Senate and House of Deputies, &c.:

ARTICLE 1. It authorizes the Executive power to grant a sum not exceeding ninety-six thousand hard dollars (fuertes) annually, the subsidy offered by the law of the 18th of August of 1865 to a line of steam navigation between the ports of Buenos Ayres and New York.

ARTICLE 2. Communicate, &c.

IRIGOYEN.

THE RAILWAY DEVELOPMENT OF THE ARGENTINE REPUBLIC.

[Washington dispatch to the Chicago Inter-Ocean, November 13, 1885.]

His excellency Señor Don Vincente Quesada, the new minister from the Argentine Republic, has just received some information from his Government, the importance of which will be realized by our exporters, and particularly the manufacturers of locomotives, rolling stock, and other railway supplies. Some years ago the Argentine Government commenced the construction of a vast system of internal improvements embracing railway lines to the various parts of the republic, running like the spokes of a wheel from Buenos Ayres, the hub, into the interior, and intended to reach not

only the interior provinces, but the surrounding nations, Brazil, Chili, Paraguay, Uruguay, and Bolivia. These lines of road were to supplement and re-enforce the great natural facilities for transportation furnished by the Rio de la Plata and its branches, which in themselves give a longer system of water navigation than is to be found in any other country on the globe, and realize the ambition of the Argentines, which is to make Buenos Ayres the commercial metropolis of South America, as London is to Europe and New York to the United States.

In addition to the railway system the harbor of that city was to be improved so as to make it more convenient for vessels to receive and discharge cargoes What is now termed the harbor of Buenos Ayres is no harbor at all, but only an open roadstead in the Rio de la Plata, in which vessels are compelled to anchor 8 or 9 miles out, and receive and discharge their cargoes by means of launches and lighters. The water is so shallow along the shore in front of the city that even the lighters cannot get to the docks, but goods are first loaded into carts with immense wheels high enough to drive into 3 feet of water and broad enough to keep them from sinking into the sand. These carts are hauled by mules and oxen out into the stream, where their contents are transferred into lighters, which convey them out to the vessels. Sometimes, when a "pampero" or prairie wind prevails, it is impossible to do business, even on this plan, and vessels are often detained several days by such causes.

In order to obviate this difficulty it has long been contemplated to construct an artificial harbor by extending two long piers from the shore into the river several miles, and excavating a basin between them, so that the largest ocean vessels can tie up at the docks.

The estimated cost of this enterprise is $10,000,000. The city of Montevideo, Uruguay, across the river Plate from Buenos Ayres, has suffered from similar inconvenience, and has recently made a concession to a French company to construct a harbor, which will cost not less than $4,000,000. This concession requires that the French company shall inclose with piers or breakwaters a space sufficient to furnish plenty of harbor room, in consideration for which it is to be permitted to charge a fee of a certain amount on every package that is landed or loaded during the next ninety-nine years. These fees are to be collected by the customs officials, and a certain percentage of them are to go into the public treasury of Uruguay. Contracts have been let, and the work has already been commenced.

Stimulated by the enterprise of her rival across the river, the Argentine Republic has undertaken the construction of a similar harbor. But the railway enterprises of the Government have been such a drain upon the treasury of Argentine as to cause serious financial embarrassment. Treasury notes were issued, but immediately fell to a discount of 20 per cent., and it was feared that the credit of the Government abroad would be impaired. The Argentines have always been very proud of the financial standing of their Government, whose bonds have never been below par, but are selling at a premium of 4 and 5 per cent. in the London market—the only South American securities that stand so well. The Government also feared that an attempt to place another loan of the amount necessary would impair the value of its outstanding securities, and was considerably perplexed by the problem it was required to solve.

A happy solution has finally been reached. Señor Quesada has received official information that the Government has made a contract with Lucius Gonzales, twice Secretary of the interior and once secretary of state, to complete all the railways now in progress, and construct such a harbor as has been proposed. The terms of the contract are exceedingly favorable, and illustrate the public confidence at home and abroad in the success of the enterprise, and the future prosperity of the Republic. Señor Gonzales, with whom the contract is made, represents a syndicate of English capitalists, and agrees to complete the construction of all the improvements now in progress at their original estimated cost of $59,000,000, of which $10,000,000 are to be expended on theharbor, and $49,000,000 upon the railroads. The Government agrees to issue 6 per cent. fifty-year bonds, to the amount of $59,000,000, which are to be deposited in London in trust for the syndicate Gonzales represents, until the completion of the entire system of improvements, the time being limited to five years. At the end of this period Gonzales agrees to turn over to the Government the harbor and the railroads fully completed and equipped, and then if an inspection shall show that the terms of the contract have been complied with the bonds are to be handed over by the trustee to the contractor. Interest is to be paid, however, on the full amount from the date of the commencement of the works, at the rate of 6 per cent., but it is to be withheld by the trustee as a forfeit until inspection shall show that the amount has been legitimately expended by the contractors. In other words, Gonzales is not to receive his semi-annual interest, amounting to $1,750,000 until it is shown that he has expended an equal amount in construction, and in case of any failure to continue the works this interest is to be considered full compensation for work performd.

In addition to the construction of a harbor, the Andean Railway, which is to connect Buenos Ayres with Santiago, Chili, is to be completed at an estimated cost of

$2,398,000 for construction, $1,000,000 for rolling-stock, $600,000 for shops and machinery, $1,000,000 for the expenses of the engineering department. Total, $4,998,000.

The Central Railway is to be completed to the coal mines in the southern part of Chili, at a cost of $6,305,000, with $2,000,000 for rolling-stock, and $1,000,000 for shops. Total, $9,305,000.

The Northern Road is to be extended to the Bolivian boundary at a cost of $8,000,000, with $1,000,000 for shops; total, $9,000,000. Branches of this line are to be extended from Chumbica to Catamarca, costing $1,293,000; and from Dean Fuenes to Chilecito, costing $5,000,000, an aggregate expenditure for the Bolivian Line of $15,293,000.

Another line is to be constructed from Tamatirue, to connect with the above, costing $2,500,000.

The Richahuelo enterprise is to be completed at a cost of $13,931,000, and various other smaller works, at an aggregate cost of $4,500,000, which make a grand total of $49,000,000.

When these works are completed Buenos Ayres will have lines of transportation to the Pacific Ocean and one to Bolivia, which will make that port the entrepôt and shipping point of much of the commerce that now goes from Peru, Chili, and Bolivia on steamships through the Straits of Magellan; and the merchants and producers of the Pacific coast, who are now in the same situation regarding the European market as California and Oregon were before the completion of the transcontinental lines, will have an opportunity to ship by land as well as sea, the transportation distance being shortened from four to six thousand miles, and the time of communication shortened from fifteen to twenty days.

The coal mines of Southern Chili, where the only steaming fuel to be had in South America is found, will be brought within three days of Buenos Ayres, and the people of Argentine will be no longer compelled to import coal from Europe. The producers of Bolivia who lost their seaports during the recent war with Chili, and are now practically cut off from the markets of the world, will have a means of outlet by the way of Buenos Ayres, and the development of that country will be stimulated to an enormous degree. Bolivia is full of metal, and has vast ranges for feeding cattle and sheep; but the mines have been worthless because of the impossibility of getting machinery into the country, all of the interior transportation being done on the backs of llamas, which cannot carry more than 125 pounds.

In addition to furnishing means of communication for the Andes and the Pacific ports with the Atlantic, these roads will make the interior of the Argentine Republic accessible, and that country will have as fine a railroad system as Kansas and Texas. The agricultural lands of the republic are mostly in the northern provinces, which are now beyond the reach of markets, and the opening of these regions will bring in an enormous immigration from the Old World, while the expenditure of such a vast sum of money will tempt laboring men and mechanics to Argentine.

The importance of these enterprises to the United States cannot be overestimated. They will not only necessitate the expenditure of many millions of dollars for railway supplies, but the men who are engaged in the work of construction must be fed and clothed with imported merchandise. The development of the country will increase its purchasing power, and the expenditure of nearly $60,000,000 of for ign money within five years will give the country such a boom as it has never before experienced. As this money is to be raised in England, it may be expected that a large part of it will be expended in that country, but the merchants and manufacturers of the United States can underbid those of England on nearly every article that will be required except steel rails, and if they adopt proper means may be able to increase their exports to the Argentine Republic to a large amount, and get a fair share of the permanent commerce which the enterprises will develop.

PARAGUAY.

[Extract from the report of the Commission.]

The commerce of Paraguay is small, although rapidly increasing, and at present is absorbed in that of Uruguay and the Argentine Republic, as there are few independent merchants in the country as yet, the trade being controlled by agents of mercantile houses in Montevideo and Buenos Ayres. These cities are the entrepôts for all the exports and imports of Paraguay, where they are transshipped from the river steamers to the ocean vessels.

The total exports and imports for the last five years, as far as the statistics could ›e secured, were as follows:

Years.	Exports.	Imports.
880	$1,163,000	$1,030,000
881	1,928,000	1,204,000
882	1,650,000	1,368,000
883	2,012,000	1,722,000
884	2,216,000	1,900,000

The imports come exclusively from Europe, with the exception of a few agricultural mplements, wagons, and a little lumber and kerosene oil from the United States, of › total value scarcely worth mentioning.

Three-fourths of the imports are from England and the other fourth from France .nd Germany. The principal article imported is manufactured cotton, which forms he wearing apparel of both sexes, and large quantities of white drillings are used, ıearly all of which bear trade-marks to deceive the people into the belief that they ame from the United States. Mr. Hopkins, who has been in and around Paraguay or forty-five years, and originally went there as an agent of the United States Gov-ırnment, says that the people will not wear anything but American cottons, and the 3ritish manufacturers are compelled to deceive them in order to keep the trade.

The goods are the cheapest possible fabrics, being about half starch and pipe clay, ıut are especially adapted to the needs of the people and answer as well as a better lass of drillings.

But it will not be many years before Paraguay will cease to import cottons and become ın exporter of them. The plant grows wild with great luxuriance, and under culti-·ation produces a fiber that is claimed to be as good as the best sea-island grades. Io serious attempt has yet been made to cultivate the crop, but experiments have ested the adaptability of the soil for the purpose, and a party of Englishmen pro-ıose to introduce machinery and enter upon the business on an extensive scale.

If the resources of Paraguay are equal to what is claimed in this respect, that coun-ry will at some future day, not far distant, become a competitor of the United States, ıut its limited area leaves no cause for alarm.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 942.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. FRYE, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 2088.]

The Committee on Foreign Relations, to whom was referred the bill (S. 2088), for the relief of the owners, officers, and crew of the British bark Chance, respectfully report:

The facts in this case appear to be as follows:

The Chance was a whaling bark hailing from Sydney, New South Wales. Her owners in March, 1871, had fitted her out at Sydney, at an expense of £3,200 (or $16,000), for a voyage in the Arctic Ocean. Besides her captain and chief officer, she carried four mates and a crew of twenty-eight men.

Sailing in the spring of 1871, with a complete outfit to take whales, she arrived on the whaling grounds early in September. The season is short, extending from about the first of September to the middle of October; and it appears that the season of 1871 was unusually promising. Whales were plenty, and there was every prospect of the Chance obtaining a full cargo of oil and bone.

The American whaling fleet of some thirty vessels had been caught by the ice about sixty miles north of where the Chance then was, and four of the vessels wrecked. Twelve hundred men were imprisoned, with no hope of escape, except by the aid of such ships as were in the neighborhood to the south.

The captain of the Chance received a letter from the masters of these American vessels addressed to "any shipmaster south of Icy Cape." This letter in eloquent terms set forth the calamity that had overtaken the American fleet, and the danger that threatened their officers and crews. It appealed for instant aid, and closed as follows:

> We realize your peculiar situation as to duty, and the bright prospects you have for a good catch in oil and bone before the season expires; and now call on you, in the voice of humanity, to abandon your whaling, sacrifice your personal interest, as well as that of your owners, and put yourselves in condition to receive on board ourselves and crews for transit to some civilized port, feeling assured that our Government, so jealous of its philanthropy, will make ample compensation for all your losses.

The master of the Chance gave up his voyage and got ready to take all of these unfortunate men on board that they had room for. They were brought to the Chance, and she sailed on the 15th of September, crowded with men, for Honolulu, at which port she arrived safely Octo-

ber 29. By this timely act the Chance rescued from almost certain death ninety-six American seamen.

It happened that Mr. J. C. Pfluger, of the firm of Hackfeld & Co., of Honolulu, held a general power of attorney from the owners of the Chance. Upon her arrival under these extraordinary circumstances Mr. Pfluger took the responsibility of drawing up an account, charging the United States at the rate of $35 a man for the passage of the officers and crews thus brought to port. The United States consul at Honolulu approved the account, and certified to the facts. This account Mr. Pfluger transmitted to Frederic Probst & Co., at New York, who sent it to Secretary Fish by letter of December 9, 1871.

The claim for $3,360 aggregate thus instituted was forwarded without the knowledge or sanction of the owners themselves.

On February 13, 1872, the owners applied at Sydney, through our consul, Mr. Hall, for compensation for breaking up the voyage.

In May, 1872, however, the owners ratified Mr. Pfluger's action by executing a new power of attorney to Hackfeld & Co. The claim for $3,360 passage money was allowed by the First Comptroller July 27, 1872, and the money paid to Probst & Co.

The Treasury Department evidently made this payment under authority conferred by the first section of the act of February 28, 1811, for the relief of destitute seamen. (2 Stat., 651.)

The section reads as follows:

> In all cases where distressed mariners and seamen of the United States have been transported from foreign ports where there was no consul, vice-consul, commercial agent, or vice-commercial agent of the United States, to ports of the United States, and in all cases where they shall hereafter be so transported, there shall be allowed to the masters or owner of each vessel in which they shall or may have been transported such reasonable compensation, in addition to the allowance fixed by law, as shall be deemed equitable by the Comptroller of the Treasury.

The claim was for transportation and maintenance of mariners. It had no reference to the breaking up of the voyage. The money went to the owners, to pay for the use of the vessel and for provisions. It did not represent proceeds of the voyage, to be divided amongst officers and crew, as well as the owners, proportionately in the same manner as "lay." The payment of $35 a man appears to have been reasonable compensation as passage money.

When the bark abandoned her whaling voyage she had taken on board, as an affidavit by one of the owners declares, 20 tons of black oil and 1 ton of bone, the fair value of which was $6,500. A fair catch for that season was worth from $20,000 to $30,000.

In presenting our claims at Geneva for losses sustained by the destruction of the whaling fleet in the Arctic by the Shenandoah, our Government said of the "catch":

> The business when undisturbed by violence is sure of a return. As certain as the harvest to the farmer is the catch of oil to the whaleman. The average catch of whales is well known and understood by the merchant and seaman. Upon this knowledge of probable average catch the sailor readily procures an advance before sailing, and his family obtain necessaries and a support during his absence. (III Gen. Arb., 254.)

The Court of Commissioners of Alabama Claims, in the cases of four whalers impressed by the Shenandoah to take to Honolulu the officers and crews of vessels she had burned in the Arctic, decided that there should be awarded the owners (besides compensation for property destroyed and expenses incurred) jointly—

> A sum to be received by them in lieu of catch, and in the enjoyment of which the ship's company shall have part, in the same manner as if the sum was the proceeds of

il and bone, which sum shall include compensation for the provisions consumed by he crew of the vessel in making the voyage, and for the enforced use of the vessel uring the voyage, and the compulsory service of the officers and crew, and shall also mbrace the considerations that the vessels were left at a point thirty days' sail at east from their point of departure, to which point they had a right to claim to be eturned, or to receive compensation for the failure so to be. [Report from Secretary f State, Senate Ex. Doc. No. 21, Fourty-fourth Congress, second session (1877), page 5.]

It is well known that the officers and crew of whaling vessels get no vages as such, but a share of the "lay," *i. e.* a proportionate part of oil nd bone taken. It appears that the "catch" is a tolerably determinte amount, according to the season. The Chance being on the grounds here whales were plenty, was almost certain of getting her full cargo.

Papers on file contain an estimate that the bark would have taken 00 barrels of oil, worth, at 60 cents a gallon, $15,120; and 12,000 pounds f whalebone, at $1.25, worth $15,000. It being too late for the Chance o return to the whaling grounds, she lost that season's catch.

Allowing for the passage money paid, for receipts from the catch up o the breaking up of the venture, the loss to the officers and crew must ave been at least ten or twelve thousand dollars. The losers are subects of a foreign power, are in no respect responsible for the delay in he adjustment of their losses, and in the opinion of your committee hould receive the usual English rate of interest in addition to the diect damages suffered by them in their noble rescue of our imperiled eamen. Your committee recommend an amendment, as follows:

Strike out the words "ten thousand," in the sixth line, and insert the vords "fifteen thousand five hundred;" and that the bill so amended ught to pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 943.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1207]

The Committee on Pensions, to whom was referred the bill (S. 1207) granting a pension to Caroline Sees, have examined the same, and report:

The claimant, Caroline Sees, is the widow of Oliver Sees, late a chief of transportation and telegraphy on the staff of Maj. Gen. D. M. Couch, commanding the Department of the Susquehanna during the invasion of Pennsylvania by the Confederate army in the month of June, A. D. 1863.

The widow states in her petition that she was married to the soldier September 28, 1857; that her husband was appointed chief of transportation and telegraph department in the militia of the State of Pennsylvania by an order of the governor; that he continued in the discharge of the duties of said office until the invasion of the State of Pennsylvania by the Confederate armies in June, 1863, when, the United States having assumed the payment of the expenses of the transportation of the militia, he was placed temporarily in their service, and assigned to a position upon the staff of Major-General Couch, commanding the Department of the Susquehanna. He was also one of the trusted custodians of the secret signals and ciphers used in the military service of the United States. These facts also appear by the documents submitted in support of this claim.

It also appears that after thus being virtually taken into the service of the Government, and while in the discharge of the duties devolving upon him on the staff of General Couch, as well as on the battle-field of Gettysburg, he contracted disease from which he died on September 30, 1863.

M. S. Quay, ex-secretary of state of Pennsylvania, and now State treasurer, states under oath that he was well acquainted with Major Sees; that he was employed in the service of the United States at the time of the invasion of Pennsylvania by the Confederate army under General Lee, and that the extraordinary labors and duties during the period he served upon the staff of General Couch, and subsequently in the care of the sick and wounded soldiers at and after the battle of Gettysburg, produced the illness and disease of which he died.

Eli Slifer, who was secretary of the Commonwealth during the whole period of the war, corroborates the above, and says—

That the pressure upon Major Sees was so great and long continued that health and strength gave way and nature proved too much exhausted to rally, and speedy dissolution followed. As the husband and father in the duties under which he suc-

cumbed rendered far greater services to his country than he possibly could have done in the field, and his death was as clearly occasioned by those services as if he had fallen in battle, the petitioner would respectfully suggest that the widow and children of Major Sees are entitled to the liberal compensation which the humane and just policy of the Government awards to the dependent survivors of its fallen defenders.

The papers show that Major Sees was treated during his last illness, but the physicians are now dead.

No application has been made at the Pension Office, inasmuch as the claimant has been advised that as her husband was not formally commissioned or enlisted in the military service of the United States, notwithstanding his disease was contracted while in active service, such application would be futile, as her case does not come within the purview of any general law.

Your committee, however, are of opinion that this case does come within the spirit of the pension laws, and is one of just that class which it is the province of Congress to provide for by special act. There would seem to be no doubt that this brave officer lost his life in the service of his country, and we therefore report back the bill, and recommend that it do pass, with the following amendments:

Strike out all after the word "Sees," in the sixth line, to and including the word "three," in the eleventh line; also strike out all after the word "volunteers," in the twelfth and thirteenth lines.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 944.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7168.]

The Committee on Pensions, to whom was referred H. R. 7168, granting a pension to Sallie Ancrum, have carefully examined the same, and recommend the passage of the bill.

Your committee adopt the subjoined House report.

[House Report No. 1792, Forty-ninth Congress, first session.]

Claimant is the widow of Aaron Ancrum, who enlisted as a private in Company G, Thirty-fourth Regiment United States Colored Troops, June 1, 1863, discharged June 2, 1865, and died February 13, 1880.

Claimant's application rejected on the ground "that there is no medical evidence filed to show the soldier's physical condition from the date of his discharge to July, 1879, and no medical evidence to show cause of death, and claimant has declared her inability to furnish the same."

Soldier, during his life, filed an application for pension, which was rejected November 21, 1871, on the ground that the disability claimed for chronic rheumatism existed prior to enlistment.

Soldier's certificate of discharge states that he was incapable of performing the duties of a soldier because of over age and general debility; he complains constantly of urinal irritation and lumbar pains; he is unfit for the "Invalid Corps" on account of color; that a man's color should have unfitted him for the duties of the "Invalid Corps" is one of the cruel insults, the result of a base prejudice, that the colored soldier, who, in common with others, hearkened to the country's call for aid in its hour of need and danger, was subjected to, and we regret that it is now set up as one of the bars against his legal and equitable claim. It is one of those anomalies of our civilization that ought to be ignored and wiped out.

Dr. Charles Witsell testifies that he was the family physician of soldier's master before the war, and that soldier was sound when he enlisted.

Edward Brown and Sampson Drayton testify that they were neighbors of soldier prior to the war, and that he was a sound, healthy man when he enlisted.

William Jones, a comrade, testifies that soldier strained his back and contracted rheumatism while working in the "Swamp Angel Battery," and that he was always troubled with rheumatism from that time, and that he was never well after his discharge.

Robert Boutelle, sergeant in soldier's company, testifies that soldier contracted rheumatism while working in the trenches; the rheumatism was in his spine; knew that the disease always troubled him to the day of his death.

Dr. A. P. Prioleau testifies that he commenced to treat soldier about 1879, and to the best of his belief soldier employed no physician at the time of his death, nor for some time previous; from his condition at the time of treatment he has no doubt that his death was caused by dropsy.

R. M. Rutledge and Sackey Taylor, neighbors, testify that soldier had rheumatism and was confined to his house most of the time; he was not able to perform any manual labor after his discharge until his death.

Hospital record shows soldier treated for rheumatism and lumbar troubles prior to his discharge.

At an examination December, 1867, examining surgeon states that soldier was totally disabled for obtaining his subsistence by manual labor, and that he was suffering from chronic rheumatism permanently affecting his back and causing constant pain, and at times in the left shoulder; much of the time he was confined to his bed.

The work performed by what was known as the "Swamp Angel Battery" was of the most arduous nature; the men were obliged to work in the mud all night, often remaining in the swamp both night and day, and from its very nature would be apt to produce rheumatism as alleged in claim for a pension.

Your committee are of the opinion that soldier during his lifetime suffered from disabilities incurred in the line of duty while in the service of the United States, and that said disabilities were the probable cause of his death, and that his widow, who is quite poor, is entitled to a pension; therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 945.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7468.]

The Committee on Pensions, to whom was referred the bill (H. R. 7468) granting a pension to Lemuel Adams, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

Lemuel Adams was born in the year 1797, and in the year 1814 was a resident of the State of Tennessee. On or about the 1st of January, 1815, said Lemuel Adams entered the military service of the United States as a substitute for Alexander Hanner, in Capt. John Tremble's company, Major Russell's battalion, and served in said company until some time in March, 1815. His name, it seems, does not appear on the rolls of said company, for the reason that he served only a portion of the time of Alexander Hanner, Hanner's name only being carried on the list and receiving the discharge. As the applicant is aged, infirm, poor, and helpless, and rendered military service for his country, although in the form of a substitute, yet he should receive a pension for the few remaining years he may survive.

They therefore recommend the passage of the bill herewith submitted in lieu of 4752, offered with his memorial to the Forty-seventh Congress.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 946.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3826.]

The Committee on Pensions, to whom was referred the bill (H. R. 3826) granting a pension to John Taylor, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

The applicant for pension is now receiving a pension of $12 per month by an act of Congress, approved May 4, 1882.

On the 5th day of November, 1884, he applied to the Department for an increase on account of disabilities incurred while in the service, and was rejected by the Department upon the certificate of the examining board, made November 4, 1885, which is as follows:

"Ball entered 2 inches below and behind the right angle of the mouth, injuring the inferior maxilla and passing through the structure of the lower portion of the mouth, coming out an inch above and to the left of the pomum adami; cicatrices are depressed and adherent; there is considerable alalia, probably owing to the injury of the nerves of the tongue; there is no external evidence of injury to the left shoulder, but there is apparent slight loss of sensation of face and of left shoulder.

"Examining Surgeon S. A. Lumly certifies to gunshot wound fracturing inferior maxillary right jaw; ball entering lower border of the inferior maxillary, passing inwards and emerging from left jaw below inferior maxillary, removing several molars and causing partial paralysis of vocal organs and impairing speech; considerable pain in cold weather; atrophied condition of left jaw; facial neuralgia; health impaired; degrees of disability permanent."

Examining Surgeon George Kellog and others certify substantially as last above, and add, that articulation is much impaired; that claimant at times is unable to speak; has difficulty in mastication. Claimant says his articulation was perfect before he was wounded; has loss of power in left arm and hand; circulation slightly impaired, probably due to injury to filaments of cervical plexus.

The claimant claims an increase of disability on account of the injuries received while in the service.

He has personally appeared before the committee, and it is evident that he is incapable of using his left arm so that he may earn his livelihood by manual labor; that he is also afflicted with a painful and embarrassing stammering of his speech, arising from the gunshot wound above referred to.

From the evidence presented, and his personal appearance and examination by the committee, the committee are of the opinion that claimant is entitled to a further rating than he already has, namely, $16 per month, and that the bill be amended by striking out the words "twenty-four" in lines 7 and 8, and inserting instead thereof the word "sixteen."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 947.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6725.]

The Committee on Pensions, to whom was referred the bill (H. R. 6725) granting a pension to William M. Swartz, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

We find that claimant enlisted in Company F, Forty-sixth Regiment Ohio Volunteers, October 1, 1861, and was discharged July 22, 1865. In June, 1876, he applied for a pension, alleging that he received a rupture while in battle at Kenesaw Mountain, June 22, 1864. The Department refuses to allow the claim without more evidence of incurrence and continuance, and the claimant declares himself utterly unable to obtain any further evidence.

Dr. J. W. Lewis testifies that he examined claimant at time of enlistment, and pronounced him a sound man physically and mentally. William T. Stewart and James W. Smith testify that they were present at the battle of Kenesaw Mountain, and that while engaged in charging the enemy they had to jump across a small stream; that immediately after said Swartz complained of an injury to his left side; after the battle was over, the surgeon examined him and said he was ruptured in the left side; that they continued in the service with said Swartz until close of war in June, 1865, and that he frequently complained of pain from the rupture. Affiant Smith says he lived near claimant for a year after their discharge, and that he was frequently partially disabled from labor on that account. The standing of these witnesses is reported good. Henry Swartz corroborates the above as to incurrence of injury.

Dr. E. G. Suyrley testifies to treatment in 1877 for strangulated hernia. Jerry Neibling, a gentleman of unquestioned veracity, testifies that he knew claimant before and after service; that he was a sound man when he went into service, and when he came out he complained of hernia and a weak back; that in 1875 he had a severe attack and they were obliged to call a physician to reduce it. The medical examining board at Saint Joseph, Mo., report oblique inguinal hernia of left side. It would seem as though there could be no doubt that claimant was injured as claimed and that the disability has continued ever since.

Your committee therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 948.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3972.]

The Committee on Pensions, to whom was referred the bill (H. R. 3972) granting a pension to Sanford C. Willhoite, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

Sanford C. Willhoite enlisted as sergeant in Company E, Thirtieth Regiment Kentucky Mounted Volunteers, on the 12th day of December, 1863; discharged therefrom April 18, 1865.

Filed claim for pension December 4, 1874, based on rheumatism and injury to right eye contracted in service in line of duty. Claim was rejected August 25, 1882, on the ground of no disability from rheumatism and no record, and claimant unable to furnish competent testimony showing existence of disease of eye in service or at discharge.

It is fully shown by testimony that claimant was sound and free from disease at enlistment. The proof is strong and amply sufficient that claimant contracted rheumatism while in the service in line of duty at Frankfort, Ky., in March, 1864. The case was submitted by Special Examiner Bond, July 31, 1882, for admission for disability for rheumatism, and on this point the claim was rejected on certificate of examining surgeon, who certified that disability for rheumatism did not exist in a pensionable degree. On the question of injury to eye it is shown by several of claimant's comrades, certified by examiner to be of good moral character, and whose presence at time of alleged incurrence of injury to right eye is verified by report of the Adjutant-General, that they were present with claimant in battle at Saltville, Va., October 3, 1864, and that they each saw claimant receive a severe injury to his right eye from the discharge of a gun in the hands of one of his comrades, who was standing immediately in his rear and shooting over his shoulder at the enemy.

That the regimental surgeon who treated him for said injury is now dead; that the assistant regimental surgeon was not present at the time and did not treat him; that his captain was not present, having a short time previous received a severe wound, on account of which he had been carried to the rear; that the second lieutenant of his company was at the time absent on detached duty; that the first lieutenant, who was present and in command, is now dead; that he was not treated in hospital because of the fact that his regiment was forced to retreat, and that claimant was forced to retreat with his command or fall into the hands of the enemy. The injury to his eye continued till his discharge, but not in a sufficient degree to entirely disable him after his first partial recovery; subsequent to discharge it is shown by abundant reliable medical and lay testimony to have increased and now exists in a pensionable degree, both eyes being affected as a result of the said injury in battle. Claimant's habits are shown to be good. Dr. C. A. Cox, the assistant surgeon of his regiment, under date November 23, 1864, issued medical certificate of disability to claimant on account of rheumatism.

Your committee are of the opinion that claimant's right to pension is as clearly established as it is possible to establish a claim by lay testimony. They therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 949.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 908.]

The Committee on Pensions, to whom was referred the bill (H. R. 908) granting a pension to Margaret E. Cochran, have examined the same, and report that after examination they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

Thomas B. Cochran enlisted September 9, 1861, as lieutenant-colonel in Second Regiment Kentucky Cavalry, and was at the time robust, sound, and healthy, free from any disease, and while in the said service and line of duty he contracted chronic diarrhea, on account of which he was discharged from the service on medical certificate of disability November 24, 1862. He died on January 21, 1873, and left claimant, Margaret E. Cochran, his widow, surviving him, who filed claim for pension January 19, 1880, which was rejected December 14, 1881, on the ground that the fatal disease, "facial erysipelas," was not the result of any disease contracted in the service of the United States.

Claimant was treated during his last illness by James M. Holloway, M. D., one of the most eminent and reliable physicians in Kentucky, who appears to have issued the burial certificate of said soldier. He testifies as follows:

"Was a surgeon in the Army during the war; was intimately acquainted with soldier from the winter of 1865 until his death. He died either January 21 or 22, 1873. This illness began January 14, 1873; the immediate cause of death was facial erysipelas; attended him in 1869 for carbuncle over the shoulder blade, and in 1868 operated on him for anal fistula and hemorrhoids; from the winter of 1866 until his death he was frequently under affiant's care on account of chronic diarrhea contracted during the war; know that this was a camp diarrhea, because he became familiar with that disease while acting as surgeon in the Army; there was ulceration of the large and small intestines, and a constant indigestion. Under judicious treatment, and a rigid diet, or while at the springs, under the influence of astringent and tonic waters, his diarrhea and general health would improve, but he was never thoroughly well, never entirely free from the diarrhea; this chronic disease influenced attacks of supervening affections, made him less resistant of malarial influences, induced the carbuncle, caused the anal fistula, also the hemorrhoids, and was the predisposing cause of the erysipelas that killed him. Facial erysipelas, which was the direct cause of death, was idiopathic in contradistinction to traumatic. Correct burial certificate as follows: 'Chronic or camp diarrhea contracted during the war, facial erysipelas supervening.'"

And further that—

"Facial erysipelas of the mild type, such as attacked the above named, is, in my experience, almost uniformly recovered from, unless influenced by excess, prolonged exposure in bad weather, or pre-existing chronic disease."

This opinion and statement of facts are concurred in and corroborated by Drs. George W. Griffiths, Robert B. Winlock, and Otho Miller.

Your committee are of opinion that the said soldier died of disease superinduced by chronic diarrhea which he contracted in the service of the United States. They therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 950.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5729.]

The Committee on Pensions, to whom was referred the bill (H. R. 5729) granting a pension to Elizabeth Warner, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

We find that claimant is the widow of Harrison Warner, who was enrolled as a corporal on the 19th day of September, 1864, in Company G of the One hundred and eighty-second Regiment Ohio Volunteers, and who was discharged therefrom on the 7th day of July, 1865. That at the date of the death of said soldier, September 14, 1877, there was a claim pending in the Pension Office for invalid pension, on account of disease contracted in the service aforesaid. After the death of said soldier, the claimant herein attempted to complete the claim, which was, on the 21st day of March, 1879, finally rejected on account of failure to prove treatment in Government hospital.

The evidence in this case shows that Harrison Warner, husband of claimant, was prior to his entry into the service a man of sound physical health, free from disease of any character, as shown by the testimony of Drs. R. W. Purdy and D. M. McConaughy, and Samuel Smith, Harvey Conner, A. M. Lang, L. L. Conner, and others who were neighbors of and intimately acquainted with him for many years previous to the war. While doing guard and other duty at Nashville, Tenn., on or about May 15, 1865, he became sick and unable to perform duty of any kind. The records show that he was not treated in general hospital, but from his own statements, corroborated by the testimony of his captain, lieutenants, and comrades, received treatment from Dr. Fear, who was a member of the same company, for what was then called "liver trouble," which continued during the remainder of the time he was in the service, and at the time of his discharge he was so feeble that his comrade, Samuel Kelley, had to procure a conveyance to convey him from the train to the point where the regiment was discharged. Capt. A. M. Lang and Lieut. L. L. Conner both give positive proof to his having disease of the liver from on or about May 15, 1865, up to and after his discharge from the service. Dr. D. M. McConaughy, who was the family physician prior to his entry into the service, testifies that he was a man of sound health at the time of his enlistment. On his return from the service, he was, on the 25th day of July, 1865, called upon to visit him at his home, and found him suffering with chronic hepatitis. He continuously treated him from that date up to the year 1870, with no perceptible improvement, his disease resulting in jaundice, entirely disabling him for the performance of manual labor.

Dr. R. A. Stephenson, now United States examining surgeon, testifies that in January, 1870, he was called upon to give treatment to Mr. Warner, and found him suffering from chronic hepatitis; continued to treat him for said disease until he died, in September, 1877. At no time during his illness was he able to perform manual labor, in consequence of the disease aforesaid.

Dr. John Shackelford, United States examining surgeon, residing at Maysville, Ky., certifies that on June 17, 1874, he carefully examined Mr. Warner, late a corporal in

Company G, One hundred and eighty-second Regiment Ohio Volunteer Infantry, and found him permanently disabled with chronic enlargement of the liver and sympathetic irritation of lungs. The soldier died, leaving the claimant, his widow, and three helpless little children, without means of support. In our opinion this claim should have been allowed by the Pension Department, as the evidence is full, positive, and clear that the disease was contracted in the service and caused the death of the soldier. This is one of the cases requiring the attention of Congress and deserving immediate consideration.

In view of all the evidence in this case, your committee recommend that the accompanying bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 951.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4002.]

The Committee on Pensions, to whom was referred the bill (H. R. 4002) granting a pension to Carter W. Tiller, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

George W. Tiller enlisted as private in Company A, Twenty-eighth Kentucky Volunteer Infantry, October 8, 1861; was captured while in line of duty near Bridgeport, Ala.; was confined at Andersonville, Ga., where he died July 21, 1864. He was sound at enlistment and capture, and is shown by records of War Department to have died of diarrhea. He never was married. His mother died in February, 1864. The claimant and beneficiary of this bill is his father, who filed claim for pension as dependent father December 31, 1877, which was rejected August 19, 1879, "on the ground that claimant was not dependent on the soldier, as he has supported himself by the income from his occupation since prior to the soldier's death."

Claimant is shown by the record to have been a very poor man ever since prior to the enlistment of his son and never at any time since his son's enlistment to have owned more than $250 in property or other thing; that he was dependent on his son for support at enlistment, and that his said son did contribute to his father's support prior to enlistment and during his service in the Army. The father is also shown to have been a cripple and unable to perform manual labor since 1864, and is now more than 65 years old and in very destitute circumstances, and would doubtless have been driven to seeking aid from charity but for the fact that on account of his high character as a man, and the esteem in which he was held by the city authorities of Louisville, Ky., he was given a position on the police force of that city, by which he has been able to make for himself a bare support. He is now old and badly afflicted, and your committee think it is the duty of Congress to place his name on the pension-roll.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 952.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4070.]

The Committee on Pensions, to whom was referred the bill (H. R. 4070) granting a pension to Patrick J. Smith, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

The applicant, Mrs. Bridget Smith, is the mother of Patrick J. Smith, deceased, late a private of Company H, Tenth Minnesota Volunteers, who enlisted in said company and regiment on the 13th day of August, 1862, was discharged on the 19th day of April, 1865, and died on the 16th day of December, 1873. Applicant's claim rejected, on the ground that soldier died of pneumonia, which was not a result of gunshot wound nor of disease contracted in service.

Patrick J. Smith, at the time of his death, was receiving a pension of $8 per month for gunshot wound in forearm, received in action near Nashville, Tenn., December 16, 1864. The evidence tends to show that soldier also suffered from weakness of lungs during the latter part of his service in the Army and after his discharge therefrom.

Owen Crosby testifies that he was well acquainted with claimant for many years and was familiar with means of support of family; that he knows of his own knowledge that soldier was, prior to his enlistment in 1862, a healthy, vigorous, able-bodied man; knows of his condition from discharge to death; that he was unable to perform manual labor by reason of gunshot wound of right forearm, which resulted in entire loss of hand and arm. He also suffered from weakness of lungs, which finally resulted in death; that soldier suffered most of the time from discharge to death from the wound and his diseased lungs, and that his mother was dependent upon him for her support, she being a widow, and that said soldier was never married.

In this testimony he is corroborated by Patrick Burns, Michael Hanley, and Michael Crosby.

Patrick Burns testifies that he has been acquainted with claimant and with soldier during his life; that soldier was sound prior to his enlistment; that he knew soldier every year from his discharge in 1865 until his death in 1872; that by reason of a gun wound in right arm soldier suffered great pain; that from the time of his discharge in 1865 till his death soldier suffered with pneumonia bronchitis; that a slight cold would at any time increase his cough and lung disease and spitting of mucous matter, and that in consequence his strength failed; that he was unable to earn a living by manual labor. Patrick Condon, a comrade, gives similar testimony.

Dr. N. M. Bemis testifies that he is well acquainted with claimant, and was with soldier during his life; that he first treated the soldier in July, 1870, for pneumonia, and has prescribed for him at various times since for chronic bronchitis; that a slight cold would at any time produce a marked aggravation of the symptoms, increasing the cough and expectoration and loss of strength; that the death of soldier followed

in two or three days an attack of the above description, evidently by exhaustion, no evidence of intercurrent disease being discovered.

While the evidence discloses disability from gunshot wound in forearm, received in the line of duty, for which soldier, up to the time of death, received a pension of $8 per month, it further discloses that he also suffered from lung trouble, which in his last days developed with great severity, ultimately causing his death. It is further apparent that his mother is a widow and quite poor, dependent on her said son during his life for a support.

Your committee think the soldier's death can easily be traced to the hardship and exposure of camp life, and therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session: } SENATE. { REPORT No. 953.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6092.]

The Committee on Pensions, to whom was referred the bill (H. R. 6092) granting a pension to Parmelia Smith, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

The said Parmelia Smith is the invalid daughter of Maj. Joseph R. Smith, brevet brigadier-general, late of Monroe, Mich. General Smith was an officer in the Regular Army; was twice badly wounded in the war with Mexico, and was promoted for gallant conduct in said war.

Said wound being of such a serious character, he was, by an examining board, placed upon the retired list.

When the late civil war broke out he was called into service, and during the entire war was actively engaged in Michigan in organizing and mustering Michigan regiments.

His wounds finally brought his life to a close in 1868, after serving his country faithfully for nearly fifty years.

His wife was granted a pension of $25 per month, which she received until her death, in 1876, the said Parmelia Smith surviving her, an invalid, entirely unable to perform any labor and without means of support. She is now fifty years old.

Your committee are of the opinion that from the long and faithful services of her father, and from the fact that she depended upon him for support, that a pension should be granted her, as the bill provides, and they therefore recommend that the same do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 954.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 525.]

The Committee on Pensions, to whom was referred the bill (H. R. 525) granting a pension to Robert C. McKee, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

This committee of the Forty-eighth Congress, having reported a bill favorably for the relief of this claimant, the same passed the House, but failed of consideration in the Senate. Therefore your committee adopt the printed report of this committee of the Forty-eighth Congress, as follows:

"That Robert C. McKee enlisted in the military service of the United States as a private in Company C, Twentieth Regiment Indiana Volunteers, July 6, 1861, and was discharged on surgeon's certificate of disability January 14, 1864, for total loss of vision of left eye and partial loss of the right; also disability of left arm from a fracture producing partial anchylosis of the elbow joint, existing before enlistment.

"December 1, 1866, he was pensioned at the rate of $6 per month for loss of sight of left eye and partial loss of right, which was increased to $8 per month July 23, 1870.

"June, 1880, claimant was dropped from the pension-roll, by order of the Secretary of the Interior, on the charge that the disability for which the soldier was pensioned existed prior to and at the time of his enlistment in the military service of the United States.

"The evidence taken by a special examiner of the Pension Office in support of this charge was *ex parte*, the claimant having no notice of the taking of such testimony, as is shown by the examiner's report to the honorable Commissioner of Pensions.

"November 20, 1880, the claimant was indicted by a grand jury of the United States court at Indianapolis, under section 5438, Revised Statutes, for presenting false vouchers, &c., and on May 21, 1881, was tried by a jury of said court, and a verdict of 'not guilty' rendered.

"Hon. Charles L. Halstein, United States attorney at Indianapolis, in a letter to Attorney-General MacVeagh, says of the trial in this case: 'The evidence was very conflicting, and on the evidence the verdict cannot be complained of.'

"General J. J. Reynolds, a distinguished citizen of Indiana and a resident of La Fayette, Ind., during and since the war, in a statement before this committee, May 26, 1884, in support of the restoration of this soldier to the pension-roll, says that he mustered the Twentieth Regiment Indiana Volunteers into the United States service, and that from seeing the condition of this soldier at the time of his trial in the district court at Indianapolis, he is satisfied he would not have mustered a man in such a condition into the military service, and expressed the emphatic opinion that the disability of this soldier could not have existed at the time of his enlistment and muster into the service.

"From an examination of all the evidence in this case, and the statement of General Reynolds to your committee, we are of opinion that a clear preponderance of the evidence is in favor of the restoration of this soldier to the pension-roll, and therefore report the accompanying bill to the House and recommend its passage."

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 955.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 448.]

The Committee on Pensions, to whom was referred the bill (H. R. 448) granting a pension to Newton Day, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

That Newton Day, late a private in Company B, One hundred and fortieth Indiana Volunteers, was stricken down with typhoid fever while on detached duty as a nurse in hospital at Wilmington, N. C., in March, 1865. That said fever caused a gathering to form in his head, which resulted in permanent catarrh of head and weakness of eyes, rendering him incapable of sustaining himself and family.

His claim for pension was rejected on the ground of no record of alleged disease and inability to furnish medical evidence to connect disability with service.

Claimant testitifies that he is unable to furnish the evidence of a regimental surgeon, because he never was examined or treated for catarrh by any of them; that he was treated in hospital at David's Island, New York Harbor, by a surgeon named Smith, but of his whereabouts he has no knowledge.

Mr. William C. Sweezy testifies that he was personally acquainted with claimant before enlistment, and had been for five years, by practicing in his father's family; that said claimant was free from catarrh, lumbago, and disease of eyes, and was otherwise sound at the time of his enlistment.

Thomas B. McGregor, late first lieutenant of Company B, One hundred and fortieth Indiana Volunteers, testifies that claimant was detailed as nurse in hospital at Wilmington, N. C., in March, 1865, and that claimant never returned to the company.

John S. Cole, a comrade, testifies that he saw claimant in hospital at Wilmington, N. C., about March 10, 1865, sick with what the hospital doctor called typhoid fever. Affiant saw him frequently in hospital after that date.

Joseph R. Cole, another comrade, swears to similar statement as above.

Enoch S. Richards, a neighbor, testifies that he has known claimant since 1850; that before claimant enlisted he was a healthy, able-bodied man, and free from any disease of the head or eyes. That when said claimant arrived home from the Army he was suffering from catarrh of the head and disease of eyes, which so affects him at times as to produce almost blindness and derange his mind and memory, causing forgetfulness, so that he is incapacitated about two-thirds of his time on account of said disability.

John H. McHenry, a neighbor, testifies as to claimant's soundness prior to entering the service; that when claimant retired from the Army he was suffering from catarrh of the head and disease of the eyes, which disabled him from manual labor by being nearly blind a portion of the time; that he has seen claimant about three times a week since his discharge; that he is in a bad way to make a living for himself and family.

T. J. Griffith, examining surgeon, states that claimant has the appearance and speech of an imbecile. The facial expression is devoid of anything like intelligence; eyes congested and have a vacant stare; speech slow and marked by want of decision; has a purulent discharge from right ear; general physical condition (like the mind) feeble. Rate him as three-fourths disabled.

In view of the fact that it is shown by the foregoing evidence that claimant was strong and healthy when he entered the service, and a broken down man at the time of discharge, your committee recommend the passage of the bill, with the following amendment: By striking out the word "Fourteenth" and inserting the words "One hundred and fortieth."

ONGRESS, Session. | SENATE. | REPORT No. 956.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

AWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1841.]

Committee on Pensions, to whom was referred the bill (H. R. 1841) ng a pension to George W. Stout, have examined the same, and re- at they have adopted the report of the Committee on Invalid Pen- of the House of Representatives, hereto annexed, and recommend ssage of the bill.

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laimant was a private in Company K, Seventieth Regiment Ohio Volunteers, ded by Col. J. R. Cockerill. On the morning of the 13th day of February, hile doing guard duty at Camp Ripley, Ohio, he, in stepping across a ditch, and fell violently to the ground, dislocating his right knee, and making it im- for him to walk. So severe was the injury that he could not put his foot to the for six months. He was compelled to wear a bandage, and by order of Colonel ll was sent home as unfit for military duty. Dr. Ellis, who is now dead, at- him for his injury until some time in 1865. From that time until the year was frequently treated by Dr. S. N. Zoy, who left the county and removed to County, Ohio, since which time he has received treatment from Dr. White. cooper by trade, he is compelled, while following his occupation, to stand s feet, which he is unable to do for any length of time without great pain to red knee. The proof is clear and strong that he received the injury in the aforesaid, and that he is still suffering and unable to perform daily labor.

. N. Zoy testifies that in 1865, while practicing his profession in Rome, Adams , Ohio, he was called upon to treat the claimant for an injury to his right d continued to treat him for said injury until he left the county, in 1882. Ex- the injury to his knee, he was a man perfectly sound in every respect, but by of said injury he is unable to perform hard manual labor, and is frequently ed to lay up and cease from work of any character.

ohn White testifies that since the year 1882 he has at intervals attended him jury to his right knee, and prescribed for him. The knee is so injured that rs constantly from pain, and is unable to perform labor for any length of time. pinion the injury is a permanent one.

A. Forsythe, Perry Gifford, and C. B. Kerr were present when the injury was l, and substantially agree as to the manner in which the accident occurred. Felix G. Slone, who commanded the company of which claimant was a mem- tifies to his having received the injury while in camp at Ripley, Ohio.

nd it unnecessary to encumber the report with all the proof filed in support laim, and have merely stated what to us seemed sufficient to warrant favor- ion by the House. In view of all the facts presented, your committee recom- at the accompanying bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 957.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5997.]

The Committee on Pensions, to whom was referred the bill (H. R. 5997) granting a pension to Elizabeth Luce, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

That Elizabeth Luce is the widow of John W. Luce, deceased, late a private of Company E, First Ohio Light Artillery, who died at Grand Junction, Iowa, November 17, 1883. Cause of death as reported by Dr. J. D. Kirby, the attending physician, "gastritis, chronic; relapse, complications; general debility, kidney difficulty."

At the time of his death said John W. Luce had on file an undetermined application for pension for an alleged stricture of the urethra, caused by being thrown upon the pommel of his saddle about August 15, 1863, while in the service. The widow continued to prosecute the claim, which was finally rejected January 7, 1885, on the ground that "alleged stricture of the urethra was not due to soldier's military service." The papers in this case from the Pension Office, which are very voluminous, have been very carefully examined, and the only possible ground for the conclusion arrived at by the Pension Office is to be found in the following statement made by the surgeon in soldier's certificate of discharge, viz:

"Organic stricture of the urethra, which, from his statement, existed at the time of enrollment."

Luce explains in a letter that he made this statement at the time to prevent his transfer to the invalid corps. They had administered chloroform, and he was still upon the operating table. That he was free from the disability before and at time of his enlistment is proven by many affidavits of neighbors and friends, among which James Brown, of Berea, Ohio, testifies that he became acquainted with claimant in 1857, who then worked for his brother, John Brown, manufacturing grindstones, and he worked with him nearly all the time for three years prior to his enlistment, and knew him to be a sound, able-bodied man, commanding the best wages for his labor.

Dr. A. S. Allen, of Berea, Ohio, testifies that he attended claimant's family, and met him often while he was engaged in work about the quarries prior to his enlistment, and he has no knowledge of his ever being sick or in any way disabled during that time; he believes he should have known if he had been unsound. After his discharge, in 1864, he (Luce) applied to him for aid for some urinary trouble, he thinks inability to pass urine, and he was troubled thereby until he moved away in 1866.

Andrew Berwick, lieutenant of Company E, First Ohio Light Artillery, testifies that when claimant entered the service he was a sound, healthy man, and so continued until August 15, 1863, when at Battle Creek, Tenn., he was injured in his urinary organs by the ring on the pommel of his saddle while he was driving one of the teams attached to a gun of his battery. This is further proven by affidavits of comrades; and the continuance of disability to date of death is proven by abundant and credible testimony.

Dr. G. Low testified April 22, 1867, that he examined claimant and found him suffering from enlarged prostate gland and stricture, irremediable, except through surgical operation, which would endanger his life, and would not be advisable except as a last resort.

While the diagnosis of death-cause by the physician who attended him in his last illness does not name stricture of urethra as the cause of death, yet it is a reasonable presumption that it contributed largely to produce the general debility, kidney, and other troubles which did culminate in death.

Your committee are of the opinion that the soldier's death is clearly traceable to the disability received in the service, and believe his widow should be pensioned; therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 958.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5329.]

The Committee on Pensions, to whom was referred the bill (H. R. 5329) granting a pension to William Antes, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

William Antes served from March 13, 1854, to March 13, 1859, in Company A, First Regiment United States Dragoons, and as private in Battery C, First Regiment United States Artillery, from July 19, 1859, to February 12, 1867.

In his declaration for pension filed in the Pension Office, he alleges disability from rheumatism, the result of malarial fever contracted from exposures in the service at Roanoke Island, North Carolina, on or about July 1, 1863, and also deafness of left ear, in consequence of hearing cannonading in October, 1864, while a member of the last-named organization. The Pension Office rejected the claim.

William H. Southard and Anthony Wiethoff, two comrades, testify as to the said Antes contracting rheumatism in the service as alleged, and that he was a constant sufferer from it in his limbs during the remainder of his service. They also testify that Antes suffered from deafness of left ear contracted during service.

George W. Ayers, another comrade, testifies that he was a member of same company as claimant in the years 1864, 1865, and 1866, and recollects that he was very badly afflicted with deafness during the latter part of his service. He was deaf to the extent that it was necessary to speak loud and clear, and nearly always had to speak the second time before he could understand. He suffered continually with rheumatism in his limbs, and was so unsound by these disabilities which he contracted in the service that he was unfit for re-enlistment, and at the time of his discharge was a broken-down old soldier.

The claimant testifies that while in last service he was sent from Fort Macon, North Carolina, by Lieut. Jasper Myers, ordnance officer of United States Army, to Roanoke Island, North Carolina, to act as ordnance sergeant, and while in the service at Roanoke Island he was prostrated with fever and ague and malarial fever, which developed into rheumatism. He applied to Lieutenant Myers to relieve him, and also to other generals, and finally, October 19, 1863, was relieved from duty there on following order:

"ORDNANCE OFFICE,
"*Plymouth, N. C., October* 10, 1863.

"Sergt. WILLIAM ANTES,
"*Roanoke Island, North Carolina:*

"SIR: You are hereby relieved from duty as acting ordnance sergeant at Roanoke Island, and will report to your regiment without delay.

"OLIVER McCALL,
"*Acting Ordinance Officer, Subdistrict of the Albemarle.*"

He returned to Fort Macon and joined his battery in a very low sta of health by reason of his sickness.

He was furnished with medicine during his illness by Dr. Hinds, who died shortly after his leaving the island. He remained with his battery until discharged, but was in bad health and severely afflicted with rheumatism, which became chronic, and has remained in his system ever since. He served thirteen years in the United States Regular Army, and is now fifty-four years of age. He was also ruptured in the service, and contracted deafness of left ear.

Dr. George R. Sullivan states that he has known Antes for thirteen years and has prescribed for him upon various occasions during these years for articular rheumatism of the knee-joints and for sciatica, upon which occasions he had been for days and weeks unable to labor.

Fourteen of the claimant's neighbors also certify that he has been severely afflicted with rheumatism and deafness since discharge, and is largely disabled for the performance of labor.

The Surgeon-General states that the medical records of First United States Artillery, Company C, prior to June 23, 1862, and of first United States Dragoons, post hospital, Fort Macon, North Carolina, prior to March, 1866, showing treatment, are not on file in his office.

The claimant spent the best part of his early manhood (thrteen years) in the service of his country, and without doubt contracted his disabilities during his long service, and your committee therefore consider that this bill should pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 959.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4229.]

The Committee on Pensions, to whom was referred the bill (H. R. 4229) granting a pension to Charlotte Algier, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions of the House of Representatives, hereto annexed, and recommend the passage of the bill.

Samuel Algier was enrolled April 4, 1862, in Company I, Thirty-first Regiment Pennsylvania Volunteers, and discharged September 22, 1862.

On the muster-rolls of that regiment for May and June, 1862, he is reported absent, detained at Camp Curtin Hospital, attending to sick and wounded. Regimental return for July 7, 1862, reports him absent on detached service at Camp Curtin; return for August, 1862, not on file; September and October, 1862, "supposed discharge from Camp Curtin: not officially informed, however."

Surgeon's certificate of disability, dated September 22, 1862, shows him to have been discharged on that date on account of "old age and general debility."

Charlotte Algier, the claimant, testifies that while in the service and line of duty the soldier was disabled at Camp Curtin, near Harrisburg, Pa., by the falling of a tent-pole, which struck him on the head, and disabled him to such an extent that he was ever after unable to perform any labor.

Claimant also testifies that she is unable to procure the testimony of the surgeon who examined and treated him in the service, as he (Dr. J. P. Wilson) is dead.

J. Nelson Clark, M. D., testifies that he was acquainted with Samuel Algier for several years prior to 1859, and during his acquaintance with him "he knew him to be a remarkably strong and healthy man."

Randolph M. Graeff and William H. Brighton, members of the same company, testify that Samuel Algier was with them in the Peninsula campaign and Fortress Monroe and the time said Algier was at the front, between the 10th day of June and the 26th day of August, 1862.

Benjamin K. Spangler testifies that on or about September 20, 1862, while lying sick in his tent, claimant came in, and when he was asked what was the matter stated that he had received an injury on his head, and was suffering with pain then, he having a handkerchief tied around his head; then went to his own tent.

Henry C. Deming testifies that he was a private in Company A, One hundred and twenty-seventh Pennsylvania Volunteers, and on detached service under the acting medical director of hospitals at Harrisburg, Pa., Dr. J. P. Wilson; that said soldier came to the office of Dr. Wilson a number of times, as messenger, and to solicit his discharge on account of physical disability; that he made out the certificate of discharge by direction of said Dr. Wilson, he, the doctor, giving as the reason that said Algier was physically disabled from remaining longer in the United States service; that he remembers said Algier served as orderly or messenger for Camp Curtin Hospital, in bringing daily reports and other papers into Dr. Wilson's office; does not remember his coming to the office for four or five weeks before his discharge.

J. R. Hayes, M. D., testifies that he took charge of the medical department of Camp Curtin on or about September 21, 1862 that Algier was discharged the same day or

day after on Dr. Wilson's certificate of disability. He knows nothing beyond this except to corroborate the truthfulness of Mr. Deming's affidavit.

J. Aug. Ehler, M. D., testifies that he was the soldier's family physician in 1862, and rendered him medical services in the months of October, November, and part of December, the same year. His physical condition required daily visits; he was suffering at the time with brain lesion.

W. H. Lauman, M. D., testifies that he attended Samuel Algier in December, 1866, for an abscess on back of head, and thereafter at various times until his death, which occurred March 8, 1869, of paralysis, which may have been the result of injuries received while in the service of the United States.

The question for your committee to decide is whether the wound which caused death was received by claimant's husband in the service. A careful examination of the evidence on file in the Pension Department shows that he incurred a disability in the service, said disability being on the head, and while said evidence is rather obscure, we are of the opinion that the claimant should be entitled to all possible doubt. There is no examination of an examining surgeon on file, as the claim was not made until after the soldier's death, but by an examination made by his physician shortly after his discharge the disability is located and shown to be permanent.

In view of the facts presented your committee are of the opinion that the relief asked for should be granted, and recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 960.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3198.]

The Committee on Pensions, to whom was referred the bill H. R. 3198, granting a pension to Mary Hastings, have examined the same, and report that they have adopted the report of the Committee on Invalid Pensions, House of Representatives, hereto annexed, and recommend the passage of the bill.

[House Report No. 701, Forty-ninth Congress, first session.]

Claimant, Mary Hastings, is the widow of Robert Hastings, late a private in Mike Gilbreath's company of scouts and guides. Her claim was rejected by the Pension Office on the ground that soldier was not in the military service of the United States at the time he received the alleged gunshot wound, as shown by the records of the War Department.

Josiah R. Gilbreath and John T. Armstrong, comrades of claimant's late husband, testify under oath that they were personally acquainted with the husband of the claimant, and served with him in Capt. M. M. Gilbreath's company Alabama scouts and guides. Josiah R. Gilbreath states that he was near the soldier when he was shot and heard the gun, and that said Robert Hastings was shot by Captain Greeen's company of rebel bushwhackers, or home guards, as they termed themselves; saw the company from where he was secreted just before hearing the firing, and saw the soldier soon after, and he was badly shot in the back. Affiant was intimately acquainted with him up to his death, and often heard it said that the gunshot wound he received would kill him. The soldier was with Capt. M. M. Gilbreath's company in the service of the United States in 1864 when wounded. After recovering sufficiently to go with the company (it being unsafe to remain at home), he again united with the company in the early part of 1865, and died some time after being discharged. Affiant Armstrong says he did not see the soldier for three weeks after receiving the wound, was near when he was shot, and saw Captain Green's rebel company who shot the soldier. The soldier was then in the service of the United States in Capt. M. M. Gilbreath's company, and sent out on the mountain at or near home as a spy, when Green's company came upon him. He died in 1865 or 1866, and was attended by Dr. Smith, who is dead, dying soon after of small-pox.

David L. Evans testifies that he was acquainted with the husband of the claimant, who was a member of Capt. M. M. Gilbreath's company of Alabama scouts and guides, in the service of the United States, until May 15, 1865. Affiant was also a member of the said company, and had personal knowledge of the wounding of said soldier near Wakefield, Marshal County, Alabama. The circumstances of said wounding were as follows: The wound was that of a gunshot in the back; the said soldier was wounded in the spring of 1864 while on duty; the soldier was sent in the capacity of a scout, and reconnoitering about his home, some ten miles from the command, and was so disabled by the wound as to be unfit for duty for some time. He afterwards rejoined the company, but was really unfit for duty for some time, and it was not safe for him to remain at home; and he died from the effects of the wound. The ball was extracted by one Dr. Smith, who has since died.

The postmaster of Kirby Creek, Ala., in answer to inquiries from Pension Office, under date of July 14, 1883, says, "The soldier died from a wound received in the service of the United States as a private, while under Capt. Michael M. Gilbreath's command. This fact is not denied or questioned in this part of the State." He believes his widow is entitled to a pension.

The only roll of Capt. M. M. Gilbreath's company of independent scouts and guides (Alabama) on file in the Adjutant-General's Office is an official copy of the roll filed in the office of the Second Auditor of the Treasury, upon which payment was made to the members of said company, under the provisions of the act approved March 3, 1869, and said roll shows that soldier's widow was paid for his services from March 10, 1865, to May 15, 1865, when said company was disbanded. It is not a hard task for one at a glance to see, feel, and appreciate the hardships and privations endured by those heroic men, who, living in a country hostile to the cause of the Union, exhibited such great moral courage and patriotism by their devotion to the old flag. These brave men were considered as hostile and inimical to the interests of their neighbors, and as dangerous to their cause, and thus situated lived in constant dread of their anger and displeasure. That the company in which claimant's husband served was recognized by the Government in passing a special act for the payment of their services is evidence that their services were valuable and appreciated. The testimony in this cause, when taken in its entirety, clearly establishes the fact that claimant's husband was wounded in the line of duty and in the service of the United States, and that his death was the result of said wound.

Your committee therefore most cordially recommend the passage of the bill, after striking out all after the word "six" in line 9.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 961.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. WALTHALL, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 392.]

The Committee on Public Lands, to whom was referred the bill (H. R. 392) declaring forfeited certain grants of land made to certain States in aid of the construction of railroads, having considered the same, report as follows:

The Committee on the Public Lands of the House of Representatives made a written report, prepared by Mr. Cobb, to accompany this bill, and the following extracts therefrom are here presented:

The Committee on the Public Lands, to whom was referred a bill of the House "declaring forfeited certain grants of land made to certain States in aid of the construction of railroads," have had the same under consideration, and report the same back to the House with the following amendment, to wit: After the word "act," in line 14, add the following: "Also, except so much of said act as relates to a grant of land in aid of a railroad from Brandon to the Gulf of Mexico, commonly known as the Gulf and Ship Island Railroad"; and when said amendment is adopted your committee recommend that the bill pass.

Your committee find by the act of Congress passed August 11, 1856 (11th Statutes at Large, page 30), that lands were granted to the State of Mississippi to be disposed of by said State in aid of the construction of two railroads, one from Jackson to the State line between the States of Mississippi and Alabama, and the other from Tuscaloosa to the Mobile Railroad in Mississippi.

The first-named railroad was completed within the time prescribed by the act of Congress, as your committee is informed, and therefore this bill does not in any way interfere with the grant made for its benefit.

To aid in the construction of each of these roads every alternate section of public land designated by even numbers for six sections in width on each side of the line of said road was granted to said State, with the right that in case of prior disposal of any of said sections, or parts of sections thereof, by the United States, to select other sections in lieu thereof, within 15 miles of said line of road.

These grants were made available by the following section of said act of Congress:

"SEC. 4. That the lands hereby granted to the said State shall be disposed of by said State only in manner following, that is to say, that a quantity of land not exceeding one hundred and twenty sections for each of said roads, and included within a continuous length of twenty miles of each of said roads, may be sold; and when the governor of said State shall certify to the Secretary of the Interior that any continuous twenty miles of either of said roads is completed, then another like quantity of land hereby granted, not exceeding one hundred and twenty sections, for such roads, may be sold, and so from time time, until said roads are completed; and if said roads are not completed within ten years no further sales shall be made, and the lands unsold shall revert to the United States."

Your committee find that no portion of these roads have been completed, and no work ever done thereon, and no land has ever been approved to the State of Mississippi on account of said grant.

By the sixth section of said act of August 11, 1856, a like grant on like conditions

was made to the States through which said road should pass "for a railroad from Mobile to New Orleans."

The road contemplated by this section has never been completed or begun.

The road from New Orleans, the Mobile and New Orleans, and that from Tuscaloosa to the Mobile Railroad was not named, it not having progressed far enough to acquire a name.

The sixth section of the act making these grants, which is set forth above, required the roads to be completed by August 11, 1866, more than seventeen years ago.

The last part of said section reads as follows:

"And if said roads are not completed within ten years no further sales shall be made, and the lands unsold shall revert to the United States."

The report proceeds to discuss the decision of the Supreme Court in the case of Shulenburg *v.* Harriman, reported in 21st Wallace, holding that an act of Congress like the act of August 11, 1856, granted an estate upon condition subsequent, and that the title which passed could only be regained by an affirmative act of legislation; and continues thus:

ELYTON AND BEARD'S BLUFF.

On June 3, 1856, Congress passed an act similar to the one we have just been considering, by which lands were granted to the State of Alabama to aid in the construction, among others, of a railroad "from Elyton to the Tennessee River, at or near Beard's Bluff, Alabama." The Secretary of the Interior reports as to this road that no map of location has ever been filed, and no part of the road has ever been constructed. So far as known, no corporation or company has ever been organized under this act. The time fixed for the completion of this road by the terms of the act was June 3, 1866. What has been said in regard to the grants heretofore named is also applicable to this one.

MEMPHIS AND CHARLESTON.

The State of Alabama refused to accept the grant for this road, and the lands were restored to market February 19, 1858. Your committee deem it prudent, however, to repeal the granting act so far as it refers to this road, and have provided for it in the bill presented.

IRON MOUNTAIN RAILROAD IN ARKANSAS.

By act of July 4, 1866 (14 Stat., p. 83), this grant was made. The act provided that the road must be completed within five years from July 1, 1866, or by July 4, 1871. The road was to have run from the southern boundary of the State of Missouri, where it was to be intersected by the Iron Mountain Railroad, to a point at or near Helena, Ark. No portion of this road has ever been located or constructed.

NEW ORLEANS TO THE STATE LINE.

This grant was made by act of Congress June 3, 1856 (11 Stat., p. 18), and consisted of alternate odd-numbered sections for six sections in width on each side of the road, with the right to take in place of any lands which were disposed of by the Government, by entry or pre-emption, within the said six miles, the alternate sections within fifteen miles of said road. This grant was made to the State of Louisiana, to aid in the construction of a railroad from New Orleans to the State line, in the direction of Jackson, Miss. No part of this proposed road has ever been constructed, and the lands were restored to the public domain, so far as the Department could do it, July 27, 1857. Previous to such restoration, to wit, on the 6th day of February, 1857, the governor of Louisiana advised the Land Office by telegram that he did not think the grant would be accepted.

In face of the facts which surround this grant your committee deem it prudent to repeal so much of the act as made said grant, providing, as the second section of the bill does, for the protection of persons holding patents from the Government and bona fide settlers, &c.

Your committee, therefore, in view of the facts set forth in this report, recommends the forfeiture of all the lands named therein, by the passage of the accompanying bill.

The Gulf and Ship Island, from Brandon, Miss., to the Gulf of Mexico, is one of the three railroads to aid in the construction of which the grant to Mississippi was made by the act of August 11, 1856. The line

is located extends from Ship Island Harbor, on the Mississippi Sound, about 170 miles northward. This harbor is located about midway between New Orleans and Mobile; it has large capacity, and at high tide has from 25 to 40 feet of water. The people of Mississippi have long cherished the hope that they might be enabled to avail themselves of the advantages it offers. They have long realized that its development would enable them, through a port on their own coast, to have some share in the commerce based upon their heavy crops of cotton, which they market every year through the ports of other States. The proposed railroad connecting this harbor with the interior of the State would contribute largely to this end. It would also make accessible one of the finest timber regions in the world, which from lack of transportation facilities has been shut out from all markets. The country along the line is well watered and healthy, but it is sparsely settled. The soil, compared with that in some other parts of the State, is poor, but the lands are heavily timbered with yellow pine of excellent quality. The State has shown its interest in the proposed railroad in every way it could in its condition. The legislature accepted the grant as soon after it was offered as there was a session. The line was surveyed at the expense of the State, and in November, 1860, a map of definite location was filed in the Department of the Interior.

In the same year the State devoted to this road stock it owned in other roads for which it had paid more than a million of money. In a few months after the map of location was filed hostilities began, and then followed four years of non-production and the waste of war. When peace came in 1865 the resources of the State were crippled, the people were poor, and the stock granted to this road had lost its value. The time fixed for the completion of the road expired soon afterwards, and the idea prevailed, until the decision in Shulenburg *vs.* Harriman, in 1874, that the lands granted were open to sale and settlement without any affirmative action of Congress to reinvest the title in the Government. Since then the sentiment in favor of forfeiting land grants to uncompleted railroads has found considerable expression, and the two causes combined, since August, 1866, have made it impossible to make the grant available for the construction of the road, as a basis of credit or otherwise. The status of Mississippi, from the close of the war until 1870, was such that she could do nothing to advance this project, but her interest in it continued unabated. In 1870 the legislature memorialized Congress to revive the grant, and from time to time has done so since, these memorials coming alike from Republican and Democratic legislatures. Your committee submit one of these memorials, forwarded to Congress in 1882:

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES IN REFERENCE TO WAIVER OF FORFEITURE OF THE GRANT IN AID OF THE GULF AND SHIP ISLAND RAILROAD.

To the Senate and House of Representatives of the Congress of the United States in Congress assembled:

Your memorialists would respectfully show to your honorable body that the State of Mississippi has made repeated but ineffectual efforts heretofore through its legislature, in the form of resolutions and memorials to Congress, to obtain a revival of the grant of public lands made by the Government in 1856 to aid in the construction of the Gulf and Ship Island Railroad; that this liberal and valuable donation was lost by no supineness or indifference of our people, but by the interruption of all works of internal improvement caused by the late war, and since its close to the prostration and poverty which it entailed. No enterprise in our State has ever received more repeated and cordial indorsement from our legislatures and people than this. At its present session our legislature has granted a new act of incorporation,

with liberal provisions, thus again attesting the abiding and earnest interest felt by our people in this important work.

It is almost superfluous to dwell on the great benefits to our State which would result from the construction of this road. It would gratify a long-cherished aspiration of all Mississippians to have within our own borders a seaport town through which the export and import trade of the State could be conducted. It would speedily populate and develop the resources of a large section of our State hitherto isolated and neglected for want of facility of access, a section of immense resources in its magnificent pine forests, its bold perennial streams, which afford unlimited water-power, and its genial, salubrious climate, making it the appropriate seat of cotton and woolen manufacture on a large scale. There is no portion of our State so well adapted to sheep husbandry, stock-raising, and farming on a small scale. We are persuaded that its natural advantages would speedily attract a hardy and thrifty population from the West and North, and that the development of its great natural resources would add largely to the wealth of our State and its annual revenues. So long since as 1860, Prof. Eugene W. Hilgard, of the University of Mississippi (distinguished throughout the country for his valuable contributions to science), says:

The most casual observer, as soon as personal inspection shall have made him conscious of the reality, cannot fail to be impressed with the immense importance of opening a highway through which Mississippi may communicate over her own, with a portion of her territory which posseses both a harbor commensurate with the magnitude of her commercial interests, and a climate not only healthful and pleasant, but capable, moreover, of producing many of the choicest fruits of the tropics as well as the temperate zone. Along with the cotton bales of North and Central Mississippi the lumber and turpentine of the vast pine forests of the South would find their way through this channel to the great highway of nations. Nor would the ample grazing grounds which separate these forests from the coast long remain without a landmark to guide the traveler. May the day not be far distant when one uninterrupted band of iron shall link together the wheat and cotton fields of the South and West with the live-oak and orange groves of the coast of Mississippi.

It is not our State and its people alone who would reap advantages from the construction of such a road. The work would possess a semi-national importance in affording to the grain-growers of the West and Northwest the shortest and cheapest line of transportation to the seaboard for the export of their large annual surplus products; while at the same time it would enable them to receive their supplies of sugar, coffee, and other tropical products, as well as foreign merchandise, at a great reduction in cost of transportation. The legislature of Mississippi has just granted a charter to the Yazoo Valley and Mississippi River Railroad, to extend from Jackson via Yazoo City to Arkansas City, in the State of Arkansas. This franchise was obtained by the Chicago, Saint Louis and New Orleans Railroad, which, with ample capital, purposes building this line without delay.* The addition of the remaining link from Jackson to Pascagoula, or other point on our seaboard opposite Ship Island Harbor, will then connect the grain fields of the West and Northwest by almost an air-line of railway with the shipping of the world at that point.

We must consider the most important practical question of the resources available for the work. It is manifest the road cannot be built by corporate or individual subscriptions in our own State. The well-known pecuniary condition of our people forbids such a hope. But we have good reason to believe that if the former grant of Government lands can be revived a substantial basis of credit will be created; and with this material aid assured, there will be no difficulty in enlisting Northern and foreign capital to insure the early completion and equipment of the road.

It is apparent that this revival of the Government land-grant, or waiver of forfeiture on the terms and conditions of the original grant, becomes the all-important and indispensable condition of success in the undertaking. Hence, we make this direct appeal to Senators and Representatives in Congress, and earnestly request that they will, without delay, revive and extend the grant of 1856 at the present session of Congress. And as in duty bound your memorialists will ever pray, &c.

Resolutions of the Mississippi Legislature accompanying the memorial to Congress in reference to the Gulf and Ship Island Railroad.

Resolved by the Legislature of the State of Mississippi, That our Senators and Representatives in Congress be requested to present to their respective houses of the National Legislature in Congress assembled the foregoing memorial, and to urge upon their houses suitable bills to secure the waiver of the forfeiture and extension of time asked in the foregoing memorial.

Resolved further, That his excellency the governor be requested to forward copies of the foregoing memorial and resolutions to our Senators and Representatives in Congress.

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* Much of this road has been completed and work on the remainder is rapidly progressing.

Adopted by the House of Representatives March 8, 1882.

W. H. H. TISON,
Speaker of the House of Representatives.

Adopted by the Senate March 7, 1882.

R. O. REYNOLDS,
President of the Senate.

Approved March 9, 1882.

ROBERT LOWRY, *Governor.*

There is a company chartered and organized for the construction of the Gulf and Ship Island Road, and the president expresses the belief that it will be promptly built if the company can get the benefit of this grant.

The following extract from a Communication from the Commissioner of the General Land Office shows that less than half a million acres of this grant, not 2,700 acres to the mile, are now available if the road should be excepted from the operation of the proposed act:

An examination of the records of this office shows that 138 townships, embracing in the aggregate 3,121,244.09 acres, are included either wholly or partly within the limits of the Gulf and Ship Island grant. Of this amount but 1,681,136.90 acres (or 35 per cent.) had been disposed of August 11, 1856, the date of the railroad grant.

From August 9, 1856, when the lands were withdrawn from sale and location fo the benefit of said grant, until the breaking out of the late war, the lands in question were subject to entry under the pre-emption and graduation laws, by actual settlers only, and from 1866 until December, 1878, under the homestead law only. From August 11, 1856, to December 30, 1878, when the vacant public lands in Mississippi were proclaimed and offered as required by the act of July 4, 1876, but 266,165.58 acres (or 8 per cent.) were disposed of, leaving 1,773,892.61 acres, (or 57 per cent.) vacant on the day last mentioned. Of the last amount 23,260.15 acres are reserved for naval purposes.

From December, 1878, until July 11, 1884, when they were again withdrawn from settlement and entry, the lands in question were subject to homestead, pre-emption, and private entry at $1.25 per acre.

In but 45 of the 138 townships have I attempted to ascertain the number of acres disposed of since 1878.

In said townships, however, I find that about 34 per cent. of the lands are still vacant. At this ratio the vacant lands in all of the townships in question would amount to 1,061,223 acres. Assuming that one-half of the vacant lands are in the alternate sections granted for the railroad, and making due allowance for the townships only partly within the limits of the grant, I estimate the amount which the State will receive in the event of the completion of the road and the recognition of her claim at 450,000 acres.

The following statement of the same officers shows that in quantity of land granted, for the purposes stated, excluding that for the Gulf and Ship Island road, Mississippi stands, with one exception, lowest on the list of States, and if that grant be included, there are but two States below it:

Consolidated statement showing, by States and Territories, the estimated number af acres of land granted to States and corporations for railroad, wagon-road, and canal purposes.

State or Territory.	Estimated number of acres granted.	State or Territory.	Estimated number of acres granted.
Alabama	3,723,120	Minnesota	15,896,402
Arizona	18,918,246	Mississippi*	2,062,240
Arkansas	3,847,378	Mississippi†	1,409,440
California	26,492,288	Missouri	3,445,760
Colorado	3,680,640	Montana	19,968,000
Dakota	9,625,088	Nebraska	8,143,948
Florida	3,088,772	Nevada	5,756,160
Idaho	2,307,040	New Mexico	14,311,680
Illinois	2,885,968	Ohio	1,131,957
Indiana	1,627,950	Oregon	11,342,144
Iowa	6,957,779	Utah	2,615,960
Kansas	8,836,059	Washington	11,258,880
Louisiana	2,578,640	Wisconsin	6,441,713
Michigan	6,411,093	Wyoming	5,926,400

*Including Gulf and Ship Island Railroad. †Excluding Gulf and Ship Island Railroad.

The probable effect of the construction of this road upon the Government lands in that region has been considered by this committee, and in this connection they have sought information from the General Land Office as to land sales along another road commenced in 1881 and completed in 1882, which crosses the Gulf and Ship Island line, running much of its length through the same character of country.

The following from the Commissioner goes to show that the land sales on the railroad he refers to in the three years while it was being constructed do not fall far short of the aggregate of all the sales during all the long time before since the lands were brought into market:

The New Orleans and Northeastern Railroad, which was located during the summer and fall of 1881 and constructed during the years 1881, 1882, and 1883, crosses the Gulf and Ship Island grant from southwest to northeast, intersecting in its passage thirteen townships, included within the limits of said grant. An examination of twenty-seven townships along the route of said road shows that the lands in twenty-four of the same were brought into market between 1811 and 1815, and the lands in the three remaining townships between 1840 and 1845, and that 194,342.36 acres out of 617,378.17 acres embraced in said twenty-seven townships have been disposed of since December 30, 1878 (mostly during the years 1881, 1882, and 1883), against 214,607.49 acres in the same townships disposed of prior to that date.

Briefly stated, it appears that 35 per cent. of the lands in said twenty-seven townships were disposed of prior to December 30, 1878, and 31 per cent. since that date, leaving 34 per cent. still vacant.

In view of the peculiar considerations above appearing, your committee are of opinion that the Gulf and Ship Island road should be excepted from the operations of this act, and recommend that the bill be amended as follows: After the word "act" in line 13 add the following: "Also except so much of said act as relates to a grant of land in aid of a railroad from Brandon to the Gulf of Mexico, commonly known as the Gulf and Ship Island Railroad."

And your committee recommend that the bill be further amended by striking out after the word "domain" in line 39 the following: "And subject to entry and settlement under the provisions of the homestead laws by actual settlers only," it being desirable, in the opinion of the committee, that the lands in question, when restored to the public domain, should be subject to disposition under the general laws applicable thereto."

With these amendments, your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 962.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2803.]

The Committee on Pensions, to whom was referred the bill (H. R. 2803) granting a pension to John H. Snyder, have examined the same, and report:

Your committee have carefully considered the facts of this case as stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1206), which we adopt, and recommend the passage of the bill.

John H. Snyder enlisted in Company C, One hundred and sixth New York Volunteers, July 23, 1862, and was discharged October 14, 1862, upon surgeon's certificate of disability because of convulsions. On April 18, 1878, he filed an application for pension, alleging chronic diarrhea, contracted in September, 1862.

The first sergeant of the company testifies that in September, 1862, the command was sent out on a scouting expedition in the Alleghany Mountains. While on this scout claimant was taken with the diarrhea, from which he became unfit for duty, and was, by affiant's order, taken to a field hospital at New Creek Station, W. Va. That affiant saw said claimant frequently at said hospital until his discharge in October following, and knows that he was suffering during that time from chronic diarrhea. He further testifies that to his personal knowledge claimant suffered from chronic diarrhea after discharge and while living in affiant's neighborhood. There are no medical records of the regiment or records of New Creek Hospital on file in the War Department. The assistant surgeon who treated claimant while in the service, as well as Dr. Hand, who rendered treatment from discharge to 1869, are dead, hence the absence of medical evidence covering that period. There is ample testimony, however, showing treatment for the alleged disability from 1869 to the present time, while examination by examining surgeons shows the existence of disability from that cause in a degree of total.

The credibility of the several affiants in the case is not questioned by the Pension Office, but because of the absence of medical evidence prior to 1869 the evidence is not deemed sufficient to warrant the allowance of the claim.

Your committee, however, are of opinion that it is shown beyond any reasonable doubt that claimant, while in the service of the United States, and from exposure incident thereto, contracted chronic diarrhea, and that he has been ever since his discharge, and is now, disabled by reason thereof, so as to entitle him to a pension, and therefore report favorably on the bill and ask that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 963.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1100.]

The Committee on Pensions, to whom was referred the bill (H. R. 1100) granting a pension to Jane W. Devereux, have examined the same, and report:

The facts of this case and the reasons for the passage of this bill are set forth fully in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 559), which our committee adopt, and recommend that the bill do pass.

Jane W. Devereux is the mother of George M. Devereux, late private in the Tenth Massachusetts Battery.

He enlisted September 1, 1862, and was killed at Reams Station August 26, 1864. She filed a claim as dependent mother, which was rejected April 29, 1884, on the ground that at date of soldier's death claimant was not dependent upon him for support, "as at that date the husband had a sufficient income for and did furnish the claimant adequate support."

To controvert this statement she submits evidence of neighbors and people who knew her husband well. At one time prior to the war he was well off, but lost his property by indorsing notes. He was a proud, high-spirited man, and resorted to all sorts of devices to make it appear he was fairly well off, and to conceal his condition from his friends and from his wife, and when he died was $3,000 in debt.

Original letters of soldier are filed with the case as proving he contributed to aid in the support of his mother while in the Army, viz: One dated Poolesville, Md., March 16, 1863, says:

"A day or two ago I sent you $35 per Adams Express, which you will receive in a day or so."

Another letter says:

"You will find inclosed $15. After this you may get the money at the city hall, for I shall allot $9 a month to be drawn by you at home."

E. W. Johnson, employer of son prior to enlistment, in 1860 or 1861, testifies: "From various remarks and conversations with him, am convinced the money paid him was given his mother for support."

G. W. Warren, justice of municipal court, Charlestown, Mass., testifies to knowing claimant and her husband for thirty years; well remembered the son, George, who was killed in battle, and knew that they were partly dependent upon him for support; knew that the father was embarrassed during the war and up to the time of his death, in 1881; that the claimant has not sufficient means for her support.

S. D. Sawin, grocer, Boston, testifies:

"Have been acquainted with John N. Devereux, husband of claimant, for last twenty-five years; have had business connections with him, and at many times conversations with him regarding his financial difficulties; have known he must have been insolvent for the last twenty years. It was difficult to collect bills incurred for

family expenses. He seemed to have a dread of appearing bankrupt, and so dragged along, subject to writs of attachment and trustee continually; his embarrassments arose from indorsements."

Charles E. Raymond, Cambridge, of firm of Thomas Dana & Co., Boston, wholesale grocers:

"I had business with husband of claimant during most of the years of my acquaintance, and for many years previous to his death considered him insolvent and of no pecuniary responsibility. Declared his intention of going into bankruptcy, and I furnished him money for that purpose."

Hugh J. Tolland, Boston, testifies:

"Have heard him complain that he could not get money to pay his debts. Am satisfied that during the last years of his life he was continually struggling to pay his debts and provide for his family."

Samuel B. Locke, of Boston, Mass., testifies:

"Knew the late John M. Devereux from 1855 to the date of his death, 1881; well acquainted with his financial standing; know that at no time in that period was he able to pay his debts; frequently lent him money to pay his notes. All the property he represented was mortgaged for more than its value, leaving at his demise not one dollar."

A letter of claimant, November 26, 1883, to Hon. H. M. Teller, Secretary of Interior, is filed, which she says:

"My only son gave his young life to his country, and that country amply able to aid me, his mother, why don't they do so? Had they left me my son I should not in my old age be left in this condition—asking aid and receiving none."

Since the death of her husband, in order to exist, she has sold articles of her household furniture—things, as she says, they were a life-time collecting.

In view of all the evidence submitted your committee are of opinion that this mother, who is now sixty-five years of age, poor, with no one to aid in her support, should be put upon the pension-roll the few remaining years of her life, believing that the Government deprived her of her son, killed in battle at the tender age of nineteen years, to whom had he been spared she could have looked for that partial sustenance she now asks from the Government. They therefore recommend the passage of the accompanying bill, with the following amendments: Insert in the title between the word "Jane" and the word "Devereux" the letter "W.;" also in the fourth line of the bill the same amendment, so it shall read "Jane W. Devereux."

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 964.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6389.]

The Committee on Pensions, to whom was referred the bill (H. R. 6389) granting a pension to Francis M. Moore, have examined the same, and report:

Your committee have examined the facts in this case, and think that the statement of the same in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 788) fairly represents the reasons why this bill should become a law. We therefore adopt the same and recommend the passage of the bill.

Francis M. Moore enlisted as a private in Company F, Nineteenth Regiment Kentucky Volunteers, November 10, 1861, and was honorably discharged January 26, 1865. Filed claim for pension on June 23, 1880, based on disability from chronic diarrhea, piles, and bone scurvy, contracted while in service and in line of duty and while a prisoner of war.

His claim was rejected on the ground of inability to furnish satisfactory evidence of origin in service of causes of inability or their continuance since discharge.

His soundness and freedom from disease at enlistment is established by credible testimony.

It is also shown that he was captured by the rebels and taken as a prisoner of war to Tyler, Tex., where he was confined from April, 1864, to October, 1864, and that when he was so captured he was sound and free from disease, but that when he was exchanged, in October, 1864, he was suffering from chronic diarrhea, piles, and bone scurvy, which he had evidently contracted while in said prison, and which still exist. The evidence tending to establish these facts is found by the Commissioner of Pensions, through confidential correspondence, to be of the highest character; and there is not a shadow cast on any of the material evidence save by the office examiner of the case, who takes occasion to classify this case as a "machine case," as your committee think, without the semblance of justifiable grounds.

Your committee think in this case that the greatest injustice has been done one of the truest and best soldiers who stood by his country's flag in the day of its greatest peril. They report the accompanying bill, and recommend its passage.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 965.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4539.]

The Committee on Pensions, to whom was referred the bill (H. R. 4539) granting a pension to Ann Little, have examined the same, and report:

The facts in this case have been fully stated in the accompanying report of the House Committee on Invalid Pensions (House Report No. 774), which we adopt, and recommend the bill do pass.

Ann Little is the widow of John Little, who was a private in Company A, Eleventh Regiment Massachusetts Infantry, who was pensioned by certificate No. 12210 for gunshot wound received in action. His death occurred March 16, 1874—cause given, softening of brain, epilepsy. She filed a claim for widow's pension July 13, 1874, which was rejected January 9, 1877, "on the ground that disease of which soldier died was not the result of his military service."

The evidence shows that he entered the service a sound and healthy man, that he received a severe wound of thigh at the battle of Fair Oaks, Va., for which he was discharged and pensioned.

George Alexander and Anna Alexander, neighbors, testify that they knew soldier for twelve years or more during his lifetime; knew him when he returned from the Army, and were familiar with his physical condition from his arrival home to the date of his death; knew he was disabled by disease contracted in the service; that he never was a well man from the time of his discharge up to the time of his death. He was unable to perform any manual labor either for the support of himself or of his wife and family. His wife was the main support of the family, excepting what was received from his pension; that their means of knowledge was derived from an intimate acquaintance as neighbors and while occupying the same house with the Littles.

Moses W. Wild, M. D., testifies he is a member of Massachusetts Medical Society and the Suffolk District Society for thirty years; that John Little died from the effect of injuries received in the war; soldier had been known by him for thirteen years, he in this time making him friendly visits, looking after his family, seeing that they and he did not suffer. That soldier went to the war a strong, healthy man where he received a severe gunshot wound of right thigh about 1 inch from the middle of his groin, near the femoral artery and nerve, the ball passing directly through the thigh. From this time up to the day of his death his right leg caused him much trouble, making it impossible to do hard work, such as a laboring man is required to do to support a family. The last three years of his life he suffered from paralysis of his right side, and the last year softening of the brain made its appearance; from time to time he would fall down insensible, and in one of these fits he died before a doctor could be called in.

Your committee are of opinion from the evidence that the gunshot wound of the right groin was the cause of the paralysis of right side which eventually developed into and culminated in softening of the brain and final insensible fits which ended in death of soldier. The widow is old and poor, has had a hard struggle to keep her family together, is now nearly blind, and has at best but a few more years to live. They therefore recommend the passage of the accompanying bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 966.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1651.]

The Committee on Pensions, to whom was referred the bill (H. R. 1651) for the relief of Rosina Heineman, have examined the same, and report:

Your committee refer to the accompanying full statement of all the facts in this case contained in the report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 791), which we adopt, and recommend the passage of the bill.

The evidence in the case shows the following facts:

That the soldier enlisted December 15, 1863, and mustered into service January 29, 1864.

The report from the Adjutant-General's Office states that the muster-rolls of his company for March and April, 1864, reports him present; May and June absent, sick in division hospital; June and August, 1864, to June 30, 1865, absent, sick since June, 1864; muster-roll dated August 10, 1865, reports him absent sick since June 10, 1864; no discharge furnished.

The report of the Surgeon-General's Office shows that the soldier "entered F hospital, first division, Ninth Army Corps, June 8, 1864, with fever, and was transferred to White House June 10, 1864. No disposition stated. No further record of soldier's treatment found. That the name of the soldier does not appear in the death register, in the office of the Surgeon-General, nor in the records of any hospital at City Point.

The record shows his enlistment and muster into the service; that he joined his company; that he was reported sick by his company roll from June, 1864, to August, 1865; that in June, 1864, he entered in field hospital, and was transferred to White House, but his discharge from hospital does not appear.

One of his comrades saw him in the City Point hospital in February, 1865, sick with the typhoid fever; that he conversed with him, and carried for him, at his request, a message to his parents.

It also appears that neither the mother, the claimant, nor the neighbors who were acquainted with the soldier have any of them seen or heard anything of the soldier since. There is no evidence that he was mustered out. The presumption is strong that the soldier is dead and died in the hospital.

In the Dangerfield case, cited on page 377 of the new Digest, it is held:

"The presumption of the common law is that a person who has been absent and not heard from for seven years is dead. The presumption may properly be accepted under the pension laws, and if when last heard from a soldier was suffering from serious disease contracted, or injury received, in the line of duty in the service, it may be presumed that his death occurred from such cause, if there is nothing in the circumstances of the case to refute such presumption."

The committee think the mother in this case is entitled to this presumption. The claim was rejected on the sole ground that the soldier's death in the military service was not shown.

A bill similar to this was passed in the last Congress, and the committee adopt the report of the committee in that case.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4825) for the relief of Rosina Heineman, having considered the same, beg leave to submit the following report:

It is evident from the papers in this case that Wilheim Heineman was mustered into the service of the United States as a private in Company E, Second New York Mounted Rifle Volunteers, on the 29th day of January, 1864.

It is also shown in an affidavit made by George F. Kohl, of Whitefield, N. Y., and Christine Weiser, of Buffalo, N. Y., that in February, 1865, one Conrad Schmidt (now dead), who was a member of Heineman's company, came home on furlough and met affiants at Tonawanda, N. Y., and told them that as he went through the general hospital at City Point, in ward 12, he was hailed by the soldier, who was there sick with typhoid fever. Soldier requested Schmidt to tell his parents of his situation. Witnesses state that they took the message to soldier's parents, who then went and saw Schmidt. Schmidt was a man of veracity.

The petitioner, the mother of Heineman, makes a statement similar to the above, and also says that she had a letter from her son dated June 7, 1864, at which date he was well. She did not hear from him again till she saw Schmidt, February 17, 1865. Then she sent a letter by Schmidt to the soldier, but when Schmidt came home from discharge he told her the sick were removed from City Point, Va., during his furlough and he did not see him after; that her son has not since been heard from, and that she can furnish no more direct proof of his death. He left no widow or child.

Claimant's husband died September 28, 1872. She was greatly dependent upon her son for support. She has no means, except ten acres of land at Johannesburg, N. Y., worth $300, and which her son bought for her, for a home. He sent her money while in the Army—at one time $50.

The claimant made application for a mother's pension, but it was rejected because of her inability to furnish proof of her son's death.

This is one of those inexplicable and mysterious disappearances so numerous in the history of the late war, and can only be accounted for by the fact that many of the sick and wounded, while in transit from one hospital to another, died, and were buried, without any record being kept of such death. This, it is fair to assume, was the case with Heineman. He was, probably, hastily buried, and this is the only way to account for the deficiency in the war records as to his death. This man was a dutiful and loving son, contributing to the support of his mother, and it is a far-fetched presumption to say that he is probably yet alive. The petitioner is now 64 years old, and is in very indigent circumstances. She is a subject for sympathy—almost an object of pity.

In view of all the facts presented, the committee think she should have a pension, and therefore recommend the passage of the accompanying bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 967.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1889.]

The Committee on Pensions, to whom was referred the bill (H. R. 1889) granting a pension to Isaac Carleton, have examined the same, and report:

Your committee have carefully examined all the facts in this case, and concur in the findings of the report of the House committee, made during the present session (House Report No. 1098), and report back the bill with a recommendation that it do pass.

The claimant enlisted in Company E, Fifteenth Regiment Ohio National Guards, May 2, 1863, and was discharged September 3, 1863. Claimant, while a member of Company E, Fifteenth Ohio National Guards, and while in line of duty near Pomeroy, Ohio, in July, 1863, while pursuing General Morgan, was wounded by a buckshot under the left shoulder, and was taken prisoner, and from said wound claimant has never recovered. The proof shows prior to his entry into the service he was a man of good, sound physical health, being, when enlisted, a farmer.

Claimant filed his application for pension December 20, 1879, and the same was rejected June 15, 1883, because claimant was not in the United States service when said wound was received, but in the State militia, and not entitled to pension unless claim had been prosecuted to completion prior to July 4, 1874.

W. H. Mills testifies that he was a private in Company E, Fifteenth Ohio National Guards, and about the 18th day of July, 1863, near Pomeroy, Ohio, the claimant, while pursuing General Morgan's command, was wounded by a buckshot under the left shoulder, he being a prisoner at the time. Affiant says he was also a prisoner in the hands of Morgan's men.

James H. Hyseel, examining surgeon, certifies that he has carefully examined Isaac Carleton, claimant, as late as March 1, 1882, for alleged disability resulting from a buckshot wound under left shoulder, and in his opinion claimant was one-half incapacitated for obtaining his subsistence by manual labor from causes above stated.

This claimant has received a gunshot wound of the chest. Missile entered on lateral aspect of the chest, about three inches below lower margin of the scapula, passing forward through the chest, and having its exit about 1 inch to the left and a little above left nipple, fracturing the fourth rib in its passage. There is an exostosis at point of fracture of rib about one-half as large as an English walnut. There is dullness on percussion over lateral and superior portions of left lung. The evidence clearly shows that claimant was in the line of duty, and did well and faithfully discharge his duty as a soldier for his country and his country's flag, as much so as if he had been regularly mustered into the United States service, and in so doing he incurred a disability for life.

While the general pension laws debar the Pension Office from favorable consideration of the claim, yet your committee are fully of the opinion that Congress should grant relief to the claimant, who is now disabled from his wounds, as above stated.

As Congress has invariably afforded relief in cases of this character, your committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 968.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2217.]

The Committee on Pensions, to whom was referred the bill (S. 2217) for the relief of Andrew T. McReynolds, have examined the same, and report:

The principal facts upon which the present claim are based are stated briefly in the preamble of the bill, as follows:

Andrew T. McReynolds served as captain of Company K, Third Dragoons, United States Army, in Mexico, during the war with that Republic, and while acting in squadron with Capt. (the late General) Phil. Kearny, the usual escort to the general-in-chief, was, on the 20th day of August, A. D. 1847, disabled by a grape-shot wound, in a charge at the gates of Mexico, by reason whereof he was placed on the pension-roll at the rate of $25 per month, which pension he continued to receive until the 15th day of June, A. D. 1861, when he was mustered into the volunteer service as colonel of the First New York (Lincoln) Cavalry (the first volunteer cavalry regiment organized for the late civil war), and served as such until the 22d of August, A. D. 1864, when he received an honorable discharge, during all of which time his said pension was withheld from him, amounting in all to the sum of $950, no part of which sum has since been received by him.

The fact appears from the evidence that notwithstanding his disability, for which he was pensioned, this brave soldier nevertheless volunteered in the next great war in which his country became involved, and rendered good and efficient service, although disabled. This would appear to be an additional reason why during the time he was again in the service he should have drawn his pension, instead of being deprived of it during such active service.

Your committee, therefore, report back the bill and recommend that it do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 969.

IN THE SENATE OF THE UNITED STATES.

MAY 6, 1886.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Military Affairs, submitted the following.

REPORT:

[To accompany bill S. 849.]

The Committee on Military Affairs, to whom was referred the bill (S. 849) to authorize the Rio Grande, Mexico and Pacific Railroad Company to purchase ten acres of land on the Fort Cummings military reservation, in New Mexico, have had the same under consideration, and beg leave to submit the following adverse report:

The Fort Cummings military reservation contains now 36 square miles. A letter from the Adjutant-General of the Army, dated February 10, 1886, shows that—

The United States military reservation at Fort Cummings, New Mexico, was originally declared by the President, under date of April 29, 1870, with an area of 4 square miles—2 miles square. The garrison having been withdrawn in 1873, the reservation was reported by the Secretary of War in letter of December 20, 1875, to the House of Representatives as no longer needed for military purposes, with recommendation that authority be given for tranter of the buildings and reserve to the Interior Department for disposition; but upon representation by the military authorities of its importance as containing the only water for many miles on the route from Arizona to the East, the Secretary of War by letter of December 3, 1878, to the Speaker of the House, requested that the former letter be not acted upon.

The post was reoccupied in 1880, and on November 9 of that year the reservation was enlarged by Executive order to embrace an area of thirty six (36) square miles, six (6) miles square, with the flag-staff in the center.

Under date of April 12, 1880, the commanding general, Division of the Missouri, was advised, by letter from this office, that there was no objection on the part of the War Department to permitting the New Mexico and Southern Pacific Railroad Company to procure water at the spring at Fort Cummings, under such rules as might be laid down by the commanding officer, District of New Mexico.

On January 9, 1885, the Lieutenant-General commanding the Army, in reply to an inquiry, reported as follows:

"I know of no orders having been issued for the sale of the Fort Cummings reservation; on the contrary, I have always recommended that it should be retained by the War Department because of the necessity of keeping the water on it within the control of the military—the valuable spring at Fort Cummings being the only water within a circuit of many miles."

A detachment of one commissioned officer and thirteen enlisted men from Fort Bayard, N. Mex., is stationed at Fort Cummings as a guard, and is relieved monthly.

This detail was subsequently changed to one non-commissioned officer and three privates.

First Lieutenant West, of the Sixth Cavalry, reporting January 28, 1886, to General R. Williams, assistant adjutant-general, Division of the Missouri, Chicago, Ill., says:

In reply to yours of the 26th from Deming, N. Mex., I have the honor to reply as follows:

(1) I inclose two sketches of springs at and near the post.

(2) Cook's Springs is in the post. The railroad company have built a fine covered stone tank about it, 30 feet in diameter, and have a 3-inch pipe running to Florida Station, 5½ miles, and use some of the surplus water not needed for the garrison. There are some of the cattle of the post-trader, Mr. S. P. Carpenter, also water at the overflow from the railroad tank at Florida Station and at the post. The flow from the spring is constant, and just about fills the 3-inch pipe of the railroad company, which has a fall of 290 feet to the station, 5½ miles distant.

(3) Frying Pan Spring is about 2½ miles above Cook's Springs, and flows about half a miner's inch.

(4) Rattlesnake Spring about 4½ miles northwest of the post, and just off the reserve, is owned by Mr. S. P. Carpenter. He has a pipe line running from it about 1,500 feet to some troughs used by his cattle. This spring runs a full miner's inch.

(5) Alum Springs and Shale Springs are about 7 miles northwest of the post; are owned by Mr. Carpenter, and run each above one miner's inch.

(6) Walnut Springs is about 17 miles northwest of the post; is owned by Mr. Carpenter and is nearly as large as Cook's Springs.

(7) Mule Spring is about 15 miles northwest; is about the size of Rattlesnake Spring.

With regard to the value of Cook's Springs to the surrounding country, as there is very little travel through this part of the country, it is not of much value to travelers, and there is not enough water to irrigate any farming land. And as far as I can see the spring is only of value to the post and the railroad, the latter having no water except this spring between Deming and the Rio Grande River, about 55 miles.

Maj. Gen. J. M. Schofield, commanding the Division of the Missouri, writes to the Adjutant-General of the Army February 4, 1886, as follows:

The spring referred to is the most valuable part of the Fort Cummings military reservation, and is indispensable to its use for any important purpose.

Hence the spring should not be sold separately, but, if at all, with the entire reservation. But I am not prepared to recommend the abandonment of the Fort Cummings reservation by the War Department at this time.

That point is a very favorable one, in some respects, for military purposes, and I think it is yet much too early to attempt to decide whether it may not be very important in future military operations.

In the mean time there is no objection, so far as I know, to the use of the spring for private purposes, as it is now used by the Atchison, Topeka and Santa Fé Railroad.

Lieutenant-General Sheridan submits his views on the subject as follows:

I fully concur with General Schofield that the time has not yet arrived when the War Department should consent to give up the Fort Cummings reservation. The spring there is of great value on account of the scarcity of water in that region, and always becomes an absolute necessity to the Government when troops are obliged to be on the move. Under the present arrangement the railroad company has full privilege for use of the water—as much so as if it owned the property—and I respectfully protest against its being transferred to the control of any one outside of the War Department.

The Secretary of War, transmitting these and other papers in the case, says:

I concur in the views expressed by the Lieutenant-General.

Wherefore the committee report adversely on the bill, and recommend its indefinite postponement.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 970.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. HOAR, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 28.]

The Committee on the Judiciary, to whom was referred House bill 28, to provide for the appointment and compensation of a district judge for the southern district of Alabama, having had the same under consideration, respectfully report:

That they recommend the passage of the said bill, with the following amendments, viz:

In lines 6 and 7 section 1 strike out the words "the same," and insert in lieu thereof the word "a."

Strike out all after the word "salary" in section 1, and insert in lieu thereof the words "of thirty-five hundred dollars, payable quarterly."

Strike out sections 2 and 3 and insert in lieu thereof as section 2 the following:

"SEC. 2. The jurisdiction of the present district judge for the several districts of Alabama and his successors shall hereafter be confined to the northern and middle districts of said State."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 971.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 570.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 570) for the relief of E. P. Thompson, having had the same under consideration, report back said bill with a recommendation that it be passed, and in explanation thereof submit the House report thereon, which is as follows:

A bill, precisely similar to this one in its provisions, was favorably reported by the Committee on Claims of the Forty-eighth Congress, which report, as it contai . 1, brief statement of the facts, is incorporated in this report, and is as follows:

"*The Committee on Claims, to whom was referred the bill (H. R. 410) for the relief of E. P. Thompson, having considered the same, respectfully report:*

"The evidence clearly shows that the postage-stamps, for the loss of which this claim is made, were stolen by a porter or messenger in the post-office; that he was arrested and pleaded guilty, and after being sentenced he made an affidavit explaining the theft and stating that the stamps had been burned to prevent his detection.

"The Postmaster-General, under act of Congress of March 17, 1882, has authority to adjust and allow claims of postmasters for the loss of stamps, &c., resulting from burglary, fire, or other unavoidable casualty. As the stamps, in this instance, were lost by theft in the first instance, the Postmaster-General thought that the case was not embraced in the terms of the said act, although the stamps were subsequently burned.

"In a communication dated October 26, 1883, the Postmaster-General says he does not think the act above referred to gives him authority to allow this claim, but that he 'would be glad to reach a different conclusion and allow the claim;' that 'it is meritorious, and I have no doubt but it will be allowed by Congress upon proper presentation of the facts.'

"Under the facts and circumstances aforesaid, your committee think the claim should be allowed, and recommend that the bill (H. R. 410) be passed by the House."

For the information of the House, the report of the inspector who examined the circumstances attending the loss is annexed to this report, marked Appendix A, No. 1; also the letter of the then Postmaster-General to the claimant, marked Appendix A, No. 2.

Your committee recommend the passage of the bill.

APPENDIX A, NO. 1.

INDIANAPOLIS, IND., *February* 1, 1884.

SIR: I have the honor to report that upon the conclusion of the usual monthly count of stock last night, January 31, in the Indianapolis post-office, the following postage stamps and postal cards were found to have been stolen:

1,600 2-cent stamps	$32 00
400 5-cent stamps	20 00
2,100 15-cent stamps	315 00
500 postal cards	5 00
	372 00

I happened to arrive here at noon, in company with Mr. G. F. Lund, head clerk, Railway Mail Service, in search of an absconding Ohio postmaster, when Postmaster Holloway informed me of his loss and earnestly requested me to take hold of the case, as it needed prompt action, and no other inspector being in the vicinity. Post master Holloway informed me that the colored porter, oneJohn Wilson, had, several-times during the month, been sent to the vault for stamps, and that he suspected him of being the thief. There was no very conclusive evidence against Wilson, but I concluded to arrest him and trust to finding some of the stolen stamps on his person or at his residence, as he could not well have disposed of so many 15-cent stamps without exciting remark and suspicion.

Consequently I arrested him and found in his coat pocket 700 2-cent stamps, and in a coat pocket in his house, 100 5-cent stamps.

Wilson made a clean breast of it, and was this evening taken before United States Commissioner Harry J. Milligan, when he waived an examination and was committed in default of $1,500 bail to appear before the United States grand jury in this city, the first Tuesday of May next.

John Wilson is about twenty-three years of age and of good character and intelligence, and is somewhat noted as a preacher in the colored church. He has been employed in this office about two years, and has hitherto borne a good character.

I was considerably disappointed at not finding the 15-cent stamps; but Wilson explained that he could not dispose of them, and became alarmed at having so many on hand, burned them, and also 300 of the 5-cent stamps. Under ordinary circumstances I should not believe this statement, but from the manner of Wilson and in view of the pressure on him to divulge, I am convinced that he told the truth. We worked on him a long time before he gave up, but finally gave all the details of his crime.

I cannot, in this connection, too highly commend the energy and intelligence of Mr. G. J. Lund in work of this kind. He is one of the best "depredation men" I have ever known or worked with. Much is due him for the rapid and successful issue in this case. I hope he may receive a speedy promotion.

Very respectfully,

WARREN P. EDGARTON,
Post-Office Inspector.

Mr. DAVID B. PARKER,
Chief Post-Office Inspector, Washington, D. C.

APPENDIX A, No. 2.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., October , 1883.

MY DEAR SIR: In the matter of your claim as assistant postmaster at Indianapolis for $357, concerning which you spoke to me while at Indianapolis recently, the record shows that the stamps for the loss of which your claim was made were stolen by a porter or messenger in the post-office, that he was arrested, pleaded guilty, and was sentenced. After his sentence he made an affidavit that the stolen stamps were subsequently burned, and there is no reason to doubt that they were.

The act of Congress of March 17, 1882, gives the Postmaster-General authority to adjust and allow claims of postmasters for the loss of stamps, &c., resulting from burglary, fire, or other unavoidable casualty. This is the only authority that the Postmaster-General has to allow claims for losses in such cases.

In your case, the loss was not by burglary, but by theft committed by a post-office employé. Although the stamps were subsequently burned, it could not be said that the loss was by fire. I am clearly of the opinion that the case does not come within the act of Congress, and that I have no authority to allow your claim. I would be glad to reach a different conclusion and allow your claim, but I cannot conscientiously do so.

Your claim is meritorious, and I have no doubt but it will be allowed by Congress upon proper presentation of the facts.

Very respectfully,

W. Q. GRESHAM,
Postmaster-General.

E. P. THOMPSON, Esq.,
Indianapolis, Ind.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 972.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 4115.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill H. R. 4115, "for the relief of John Taggart," having had the same under consideration, report back said bill, with a recommendation that it be passed, and in explanation thereof submit the House report thereon, which is as follows:

The commitee is satisfied that the claimant is a man whose statements are entitled to credit. That on the 18th day of February, 1885, the claimant made the following affidavit:

STATE OF MISSOURI,
County of Harrison, ss:

Before the undersigned, a notary public within and for the county of Harrison and State aforesaid, personally appeared John Taggart, of Bethany, Harrison County, Missouri, and being by me first duly sworn, upon his oath states that in the year 1868 he was appointed postmaster for the office of Bolton, Harrison County, Missouri; that in the year 1869 he removed to the town of Bethany, in said county, and left the office in charge of a deputy; that the building in which said office was kept was destroyed by fire in the fall of 1870, and to the best of this affiant's knowledge and belief the entire contents of said building, including the contents pertaining to said office, as well as a general stock of dry-goods, were entirely destroyed; that afterward the Post-Office Department at Washington, D. C., claimed from this affiant a sum of thirty and $\frac{64}{100}$ dollars ($30.64) for stamps, which was paid to Wm. S. Conner, the postmaster at said town of Bolton, and for which the receipt is herewith presented; that the above amount of $30.64 this affiant verily believes was received for stamps that were destroyed in the burning of said building.

JOHN TAGGART.

Subscribed and sworn to before me; and I certify that I am well acquainted with the affiant, and that he is a highly respected citizen, and all his statements are entitled to full faith and credit.

In witness whereof I hereunto set my hand and official seal this 18th day of February, A. D. 1883.

My commission as notary public expires January 14, 1885.

[SEAL.] WM. C. HEASTON,
Notary Public.

Your committee is of the opinion that the statements contained in the foregoing affidavit are true, and that the claimant should be granted the relief asked for.

This claim was reported upon favorably by the Committee on Claims in the Forty-eighth Congress (Report 1418).

Your committee recommend the passage of this bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 973.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7329.]

The Committee on Pensions, to whom was referred the bill (H. R. 7329) granting a pension to Patrick McKean, have examined the same, and report:

The facts of this case are set forth at length in the subjoined report (House Report No. 1586), which your committee adopt, and recommend the passage of the bill.

Patrick McKean enlisted as a private in Company K, Eighth New Hampshire Regiment, November 15, 1861, and was discharged January 17, 1865. In his claim for pension he alleges that about August 30, 1862, near Camp Parapet, Louisiana, he became night-blind, and that in the spring of 1864 he contracted rheumatism.

His claim for rheumatism was rejected on ground that claimant cannot furnish necessary testimony, and for night-blindness on ground that he has not been disabled in a pensionable degree.

Frank McManiman and Martin Bohen testify to his soundness and freedom from either of these disabilities prior to enlistment. The latter worked in the same room with him and saw him every day. Cornelius Moriarty worked with him for two years before enlistment, and testifies to his soundness, and that after his return from the Army he knew him to be troubled as he alleges.

There is a great abundance of most competent evidence to show these disabilities in the service.

Capt. Thomas Connolly testifies that night-blindness first appeared at Camp Parapet in 1863, and McKean could not be detailed at that time for guard duty on account of said disease.

Lieut. John J. Nolan testifies that McKean contracted rheumatism at Franklin, La., in 1864, and was left behind in New Orleans in spring on account of said rheumatism and night-blindness, and was sent to Saint Louis hospital; that claimant was a faithful soldier, and a man whose statements are worthy of belief.

Assistant Surgeon Clark testifies that, some time in year 1862, claimant was afflicted with night-blindness; that in April, 1863, while on march in rear of Port Hudson, this disability was so troublesome that he (Clark) ordered a man to march on each side of McKean to guide him, as he satisfied himself by observation that his difficulty was real and not feigned; that McKean's disability continued during his (Clark's) connection with the regiment to August, 1864.

Sergeants Lawrence Foley and Michael Kenney, Privates Michael Finnegan, Thomas Brennan, and William McIntyre furnish evidence in regard to claimant suffering from these disabilities, some stating circumstances and incidents occurring in connection with claimant's night-blindness.

Dr. John Ferguson treated him for rheumatism in spring of 1872; prescribed frequently, and advised McKean to go to Soldiers' Home. Dr. Buck, who treated him at other times, is dead.

There are also about a dozen affidavits, which we deem it unnecessary to quote in detail, all tending to show that from the time of his discharge he has been more or less disabled by both troubles. Some of these knew him as free from them prior to his enlistment, and noticed their effects upon his return from the Army.

Edwin R. Jones, an overseer in the Manchester mills, says claimant worked for him in 1867 and 1868, and was at times unable to work on account of trouble with eyes, which claimant said he contracted in the service. He was a good man and a good workman.

It appears that at times McKean has been disabled four or five weeks at a time on account of night-blindness and rheumatism.

The sick report of regiment shows that claimant was treated in 1864 for intermittent fever, a fact which we consider in connection with the report of the Manchester board, hereafter given.

A special examination was ordered by the Department with a special view to determine "whether as a matter of fact this man now has or has had night-blindness," and examination in regard to rheumatism was only incidental. This special examiner expressed opinion that claimant's "eyes are near-sighted and weak, but not night-blind;" but, in order to fully determine the question, recommends a further examination, which, however, does not appear to have been had.

F. S. Peters, reviewer, special examination division, says upon this report:

"There is unquestionably some lesion of sight, but whether it has impaired sight in a pensionable degree will probably have to be decided by medical reference."

Dr. Canelle, a specialist, made examination of eyes, under direction of the Department, March 29, 1884, and reported as follows:

"Ophthalmoscope examination shows a small optic disk, with a large ring of choroidal atrophy surrounding it, in each eye. The blood-vessels appear smaller than normal. Otherwise the choroid and retina look normal. Field of vision normal in extent. Color-blind for green; other colors perceived. Diagnosis: Sclero-choroiditis posterior both eyes; both disks look small, but should not call them atrophied; they don't look pale, but vessels seem smaller than normal. His vision is not so good at night for distance, without glasses, as in the day-time, if his statement can be believed; but with convex glasses he saw quite as good at night as in the day-time. I cannot say that he is not night-blind. There are no physical signs by which it can be detected. The applicant has the appearance of being much older than 44 years of age. I cannot say whether his Army service had anything to do with the trouble in his eyes or not."

The Manchester board report as follows, date June 16, 1880:

"Conjunctiva slightly injected; eyes apparently weak; winks frequently, is myopic: reads Snellen's No. X at 2½ feet. He says he is unable to do any work after twilight. We are not satisfied that he suffers from hemeralopia; but if sufficient evidence to establish that fact is in possession of Department, would rate his disability at one-fourth total, or $2 per month. No evidence of rheumatism. Says he has chills and fever frequently. Do not recommend pension for rheumatism. He says he has at times severe pain in joints, disabling him from labor. We believe this may be neuralgia, due to malarial poisoning, and would rate disability from this cause at one-half total, or $4 per month."

From the history of the case disclosed in the evidence, which is very direct and voluminous, we arrive at the conclusion that McKean did contract a disease of the eyes in the service, and also a further disability, whether it be rheumatism or neuralgia, and that he should be allowed pension for the disabilities for which the Manchester board rated him.

We recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 974.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2258.]

The Committee on Pensions, to whom was referred the bill (S. 2258) to increase the pension of James E. Gott, have examined the same, and report:

The claimant, James E. Gott, was a private of Company A, Fourteenth Maine Volunteers. He was pensioned under the provisions of the general laws at the rate of $8 per month from May 4, 1863; this was increased to $12 from July 16, 1873; again increased to $18 from December 28, 1876; again increased to $24 from March 3, 1883, for anchylosis of lower jaw. He applied for a further increase on the ground of abscess of left maxillary bone, result of scurvy, &c.; but this application was rejected November 10, 1885. Upon his examination September 2, 1885, he was rated by the board of surgeons as of second grade, "unable to perform any manual labor."

A memorial is presented to us, the truth of which is averred by a large number of respectable signers, and from other sources, as the basis of the present claim for $50 per month. It represents that in consequence of the flesh of the inside of claimant's mouth adhering or growing to the jaw, he is unable to open his mouth, rendering it impossible for him to take into his mouth any solid food of any description, and that he is in consequence a great sufferer and unable to labor.

The following affidavit of the claimant also shows his present condition:

DEER ISLE, MAINE, *April* 21, 1886.

I, James E. Gott, was enrolled on the 7th day of December, 1861, in Company A, Fourteenth Maine Volunteers, and was discharged from the service of the United States the 4th day of March, 1863, by reason of surgeon's certificate of disability, at the marine hospital at New Orleans, La. I was taken sick at Camp Williams, near New Orleans; we were on guard and our tent was full of prisoners, and we had to lie on the ground and got wet and cold, and the next day I was taken sick; that was the last of October, 1862, and I was taken to the hospital the 1st day of November, 1862, and have not seen a well day since. I have pain in my face most all of the time; it is so hard for me to eat it keeps my face sore all of the time; I cannot open my mouth any, and all I can eat is what I suck through my mouth, and all I have to live on is my pension and what my friends help me. I could get extracts of different kinds of food

if I had the means to get them, and the most of my teeth is affected, and I cannot have them taken out because I cannot open my mouth. I have not done any work for a long time. I cannot get any wages because I cannot stand it, so I cannot earn anything.

Very respectfully,

JAMES E. GOTT.

Personally appeared James E. Gott and acknowledged the above instrument to be true.

Sworn to before me this 22d day of April, 1886.

[SEAL.] S. B. THURLOW,
Notary Public.

No. pension 81,065, $24 per month.

In view of all the facts in this case your committee feel justified in recommending the increase asked for in this bill, and therefore report it back with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 975.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5643.]

The Committee on Pensions, to whom was referred the bill (H. R. 5643) granting a pension to Charles F. Ward, have examined the same, and report:

Your committee have examined the evidence, a full statement of which appears in the annexed report (House Report No. 1276), which they adopt, and recommend that the bill do pass.

Charles F. Ward enlisted as an ordinary seaman in the United States Navy January 23, 1862, he being at the time a young man and physically sound, except, perhaps, some slight trouble with rheumatism and catarrh. On or about February 27, 1862, while on board the Vermont and in line of duty, he fell upon the berth-deck of said vessel, striking upon the train-tackle bolt, injuring the lower part of his back nearly over the right kidney. The record shows that he was admitted to the ship's hospital at said time with "rheumatism and contusion from a fall," and was discharged to duty April 13 following. He was again admitted to hospital on Gem of the Sea, having been previously transferred to said vessel on July 4, same year, with "lame knee," supposed to be from said injury received on the Vermont, and was discharged to duty on the 17th of said month. He was afterwards transferred to the receiving-ship Ohio, and was, on December 10, sent to the naval hospital at Chelsea, Mass., the records of which institution state that he has been able to do but little since the injury to back was received on the Vermont, and he was discharged from the service on January 13, 1863, on account of disability.

Ward is pensioned at the rate of $12 a month for injury to back. March 5, 1883, he filed a claim for increase, alleging increased disability from same injury, to wit, "partial and increasing deafness of right ear, and especially pain and difficulty of seeing in right eye." The claim was rejected on ground that there had been no increase of disability, and from this action an appeal was taken to the Secretary of the Interior, who affirmed the action, saying:

"The evidence does not appear to be sufficient to show the connection between the injury to the back and the diseased condition of the eye and ear."

February 11, 1884, claimant filed another application for increase, alleging, in addition to what he alleged the year before, "hernia of the left side, and a bad prolapsus ani," caused by the same injury to back.

This claim was also rejected on substantially the same grounds as the former, and another appeal was taken. Claimant was notified that his last declaration had been treated as alleging the four disabilities as a result of injury to back, that it should have been treated as a claim for new disabilities, and claimant was called upon to furnish additional testimony to show that these injuries were contracted in the service and line of duty. This claimant is unable to do.

There is no question that Ward is now suffering from hernia, prolapsus ani, and partial loss of sight and hearing, as alleged. Are they a result of the injury to back? There seems to be a difference of opinion among the doctors.

Dr. Hood, medical referee of the Pension Office, states in reference to the four troubles before named:

"None of them can be accepted as sequential to the original injury to back."

In speaking specially of the loss of sight and hearing in the right eye and ear, he says:

"There can be little doubt that in each case it was due to some local lesion, and not dependent upon an injury of the spinal cord received several years before."

Dr. John Campbell, medical referee, in giving his opinion, says:

"There is no law or principle of pathological science, as understood at present, which would justify the conclusion that such injury and blindness and deafness could bear the relation of cause and effect, and therefore the blindness and deafness are more reasonably attributable to other causes. There are no direct anatomical relations between the location of the injury (right lumbar regions) and the organs of special sense, and to suppose such a result from indirect reflex peripheral action would be to introduce a new theory of the nervous system, and one not in harmony with pathological science."

On the other hand, the Portland board of surgeons, in their certificate, April 18, 1883, says:

"Accepting as true his (Ward's) account of the injury and subsequent history, we think that this impairment of eye and ear are the result of injuries to his nervous centers, caused by the injury to the spine."

The same board, March 12, 1884, say:

"We consider the loss of the eye and ear as the result of the injury."

Dr. Kimball, under whose care the appellant came about March, 1884, deposes, August 20, 1884:

"I have no doubt this whole trouble [he had been speaking of all the four troubles for which claimant is not pensioned] is the result of an injury received in the back while in the Navy."

There seems to have been some slight impairment of vision in right eye and of hearing in the right ear soon after said injury was received, but these disabilities did not attract the attention of appellant's friends until about 1875. In January, 1882, Dr. Fred. Quinby, United States examining surgeon, found great diminution of sight in right eye, accompanied with great pain, and also complete loss of hearing in right ear; also that claimant often suffered sudden loss of power in his right leg while walking; that a large space at the right of sacrum was exquisitely sensitive to the touch, and that there was no disease of the lower series of spinal nerves of the right side.

In April, 1883, the Portland board certifi[illegible] that—

"There are no physical signs of injury of back except marked prominence and rigidity of the right spinal muscles in the lumbar regions. The right eye is practically useless. He cannot distinguish objects and only light from darkness. Hearing in right ear, tested by watch, three twenty-fourths. He looks feeble, is under weight, and is very nervous."

In March, 1884, the same board says:

"The right spinal muscles in the lumbar regions are more prominent than the left, and rigid."

The evidence also shows that the claimant has been for some years partially disabled by prolapsus ani, and was probably suffering some from this cause very soon after his discharge from the Navy, and that about the same time he had a rupture on the left side which has caused a very considerable degree of disability. It appears that the claimant has been able to do light work only since his discharge, and some of the time has been unable to do anything by reason of these various troubles.

The facts warrant us, we think, in recommending a material increase of pension, although not to the amount contemplated in the bill. He incurred a severe injury in the service which necessitated his discharge; other disabilities, which have increased until they now are of a most serious character, appeared almost coincident with his injury to back. There seems to us to be reasonable grounds for a presumption that his present disabilities are attributable to the fall on the Vermont in a greater degree than he is now pensioned for, and we recommend the passage of the bill with an amendment striking out the word "fifty" in line 5, and inserting the words "twenty-four."

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 976.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4644.]

The Committee on Pensions, to whom was referred the bill (H. R. 4644) granting a pension to Noah B. Brookshire, have examined the same, and report:

The evidence in this case is specifically set forth in the accompanying report (House Report No. 610), which your committee adopt, and recommend the passage of the bill.

The claimant, Noah B. Brookshire, enlisted in Company B, Third Regiment North Carolina Cavalry, on the 6th of October, 1864. Sick with bilious fever, February, 1865, was sent to the Asylum Hospital, Knoxville, Tenn., and there treated for bilious fever; hospital data corroborate statement of treatment as made by claimant. A number of witnesses testify under oath that claimant was a sound and healthy man prior to his enlistment in said regiment. The conclusions arrived at by Thomas S. Smythe, the special examiner of the Pension Office, states the case in such a clear manner that it is made a part of this report:

"The investigation of this case was very tedious and laborious, the witnesses scattered over a large extent of country, thus involving a large amount of travel. I was accompanied by claimant. Some of the witnesses examined are relatives of claimant. This seemed to be unavoidable, as nearly all the citizens in his old neighborhood seemed to be related in some way or other to him, but, so far as I was able to judge, the witnesses intended and desired to tell the truth; none of them seemed to have any undue bias either for or against the claimant. From the evidence I make the following deduction:

"(1) It is certainly established that claimant at the time of his enlistment was sound and free from any disability.

"(2) That while in the service he contracted fever.

"(3) That at the time of his discharge, or at least on his return home in 1865, he was suffering from the effects thereof in some degree. It is true that from 1865 to 1868 the case was not altogether as it might be, and the extent of claimant's disability defined as clearly as the examiner could wish, yet when all the facts and circumstances are taken together, it seems that the only fair inference is that claimant returned home disabled and so remained up to 1868, and from that time to the present, if Dr. Council is to be believed, there can be no question as to his disability; in this connection I will state that Dr. Council is regarded as a man of standing, a reputable physician, and truthful; in fact no man in the community stands any better. Having patiently investigated the claim, and after weighing and considering all the testimony, I am compelled to recommend that the claim be admitted."

Dr. W. B. Council states under oath—

"That he carefully examined said claimant and found him suffering from a pain in the left side which, in my opinion, is the result of severe attack of bilious fever he had during his service in the United States Army. The pathology of the case is, that after the attack of fever and exposure to cold, the disease settled on the pleura in the left

side. I attended the said claimant several years ago, I think in 1868, in a case of typhoid fever, and he then had this pain in the left side, and had had ever since his discharge from the Army, so he stated to me; and this was long before he ever thought of applying for a pension. I am satisfied from the history of the case and from my knowledge and long acquaintance with said claimant that the pain in his left side was caused as above stated, and while in the service of the United States."

E. M. Phillips, M. D., examining surgeon, in his official report in the record, states:

"I find in the above case that Mr. Brookshire was sick in the hospital at Knoxville, Tenn., four weeks with 'typhoid or bilious fever,' during the late rebellion. Since then his health has not been at all good. He suffers with an enlarged spleen and engorged liver, especially felt in the left hypochondrium He has painful and burning urination, suffers greatly from pain in lumbar region, and in my opinion is the result of fever, treatment, and war privation. I know the gentleman well, and know him to be a man of good character, and suffers as alleged and stated as above. He is a man void of vicious habits.

"The claimant is rated at three-fourths incapacitated for obtaining his subsistence by manual labor."

In view of the testimony, both lay and professional, your committee are of the opinion that the disability complained of by claimant was contracted while in the service and in the line of duty, and therefore recommend that the bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 977.

IN THE SENATE OF THE UNITED STATES.

MAY 10, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3954.]

The Committee on Pensions, to whom was referred the bill (H. R. 3954) granting a pension to Henrietta Fisher, have examined the same, and report:

Your committee concur in the report hereto annexed (House Report No. 684) and recommend the passage of the bill.

We do not consider it necessary to elaborate the report beyond the following decision of the Pension Office in this case, which we give entire, to wit:

[Certificate 153354. Henrietta Fisher, widow of Thaddeus Fisher, Co. B, 4th U. S. C. T.]

The soldier was a pensioner on account of amputation of the right thigh from a gunshot wound received at Petersburg, Va., June 15, 1864, and died September 26, 1870. The cause of death is shown by the statement of Dr. S. D. Gross, as follows: "Died under my care, of hemorrhage, consequent upon an operation performed upon him for the cure of aneurism of a stump of the right thigh, amputated, as I am informed, during the late war on account of a gunshot injury."

The widow was pensioned, and continued to draw her pension until September 4, 1875, when payment thereof was suspended pending an investigation of the merits of the case in common with all Philadelphia claims. During this investigation Dr. Gross made the following statement before Special Examiner Sprague: "That he performed an operation upon the stump of one of his (Fisher's) thighs at the Jefferson Medical College some years ago on account of an aneurismal state of the main artery and vein of said stump, and that he attended said Fisher up to the time of his death, about ten days after said operation. He does not believe that the affection of the vessels for which he performed the operation in question had any connection with or dependency upon the gunshot injury, for the relief of which the limb was amputated."

Upon this statement the widow's name was dropped, on the ground that the soldier's death was not chargeable to his military service.

Upon appeal to the honorable Secretary of the Interior, this action was affirmed March 25, 1878, and again June 15, 1880.

The medical referee, under date of May 9, 1882, questioned the correctness of the action of the office upon the mere opinion of the doctor, and expressed the opinion that the chances are that the aneurism on which Dr. Gross operated was an outgrowth of the amputation. In a subsequent opinion, that office states that unless the opinion of Dr. Gross, who is authority upon surgical questions, can be set aside, the action of dropping the widow's name from the rolls must be adhered to.

Dr. Gross is dead; his conflicting statements cannot now be reconciled. The fact remains the same: the soldier died because of an operation performed on an amputated limb. Would the artery and vein at the point of the operation have become aneurismal but for the amputation of the limb, necessitated by the wound received in line of duty?

There must have been cause for this diseased condition, and no other element is apparent. How can the opinion of Dr. Gross be overcome? It is not at all probable that it could be done; at least a professional mind could not be satisfied on that point by lay testimony, in particular such as could be expected in the case of a colored claimant.

Yet the case appears meritorious upon its face.

The case having been settled by the Department, the office is estopped from taking action except upon the filing of new and material evidence.

Respectfully submitted.

April 4, 1885.

A. VANGEUDER.

The foregoins statement was prepared at my request, and I concur in the views therein expressed.

N. P. LOVERIDGE,
Q. D. C.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 978.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1840.]

The Committee on Pensions, to whom was referred the bill (H. R. 1840) granting a pension to Samuel F. Garrett, have examined the same, and report as follows:

This soldier entered the service July 4, 1861, and was honorably discharged July 9, 1865. Through exposure and hard service he claims to have contracted chronic diarrhea and inflammatory sore eyes, while in the line of duty, and in November, 1879, applied for pension. This claim was rejected in January, 1884, upon the ground "that there has been no pensionable disability from alleged causes since discharge."

An examination of the papers in the case, however, discloses the evidence to be abundant that the claimant was, and is, greatly disabled. His father's family physician testifies to his robust health and entire freedom from disease prior to his enlistment, and the War Department records show that he was treated for the disabilities alleged in the Government hospitals.

The following brief extracts from the report of the House Committee on Invalid Pensions set forth other and undisputed testimony to the same effect, while the Department examiner, R. G. Charles, gives his recommendation for allowing the claim:

His officers and comrades testify to his having chronic diarrhea in November, 1861, and sore eyes in 1863, and that he never recovered from either disability during his service. His neighbors, who have known him from boyhood, testify to the continuance of the diseases from the time of discharge, in 1865, up to the present. Drs. Grinnell, Graham, Stephenson, and Connell, skillful and reputable physicians, bear positive testimony to his disabled condition from the causes alleged.

Notwithstanding the rejection of this claim by the Department, the Department examiner, R. G. Charles, recommended its allowance in the following words:

"From my examination of all the evidence in this case, I am of the opinion that the claim should be admitted for chronic diarrhea and inflammation of eyes. I think that claimant has been disabled for performing manual labor during the years from 1863 to 1882, in degree one-half."

All of the witnesses testifying in support of the claim are of the highest character and best standing, and all of them have lived in the same community with the claimant since his birth.

This committee think the facts and evidence sufficient to warrant the claim, and therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 979.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4642.]

The Committee on Pensions, to whom was referred the bill (H. R. 4642) granting a pension to James Carroll, have examined the same, and report as follows:

James Carroll, the claimant, sets forth in his claim for pension that he was enlisted as a private in Company B, Third Regiment North Carolina Mounted Volunteers, about January 25, 1865. That while in the line of his duty, in the recruiting service, he received two gunshot wounds in the right hip and side. He was enlisted by George W. Perkins, in Watauga County, North Carolina, and was wounded before reaching his regiment. He is, therefore, unable to furnish the testimony of any of the officers of his regiment, who necessarily were ignorant of the facts in the case.

The following extracts from the report of the House Committee on Invalid Pensions, embody what this committee believes to be conclusive evidence as to the merits and validity of the soldier's claim:

On the muster-roll of Company B, George W. Perkins is reported as "absent on recruiting service from September, 1864, to February, 1865."

George W. Perkins, comrade, testifies that Capt. George W. Kirk, of Company B, Third North Carolina Mounted Volunteers, gave him orders to recruit men for the regiment; that he reached Watauga County, North Carolina, about January 15, 1865, and shortly afterwards claimant was enlisted and his descriptive list taken; that about January 25, 1865, he and claimant were at the house of William Triplett trying to recruit him; that while on their way from Triplett's house to the widow Carroll's, claimant's mother, they came upon a party of rebels, being part of the Watauga Home Guard, commanded by Lieut. Lewis Bryant; that said rebels fired upon them, wounding claimant in the right side and hip.

John Elrod testifies that he was a member of the Home Guard in the Confederate service under Lieut. W. L. Bryan, in Watauga County, North Carolina; that said command came upon George W. Perkins and claimant and fired several shots at them, wounding claimant severely; that he, affiant, carried claimant a half mile to his mother's house and dressed his wounds.

Dr. W. B. Council testifies that he examined claimant and finds that he received a gunshot wound in right breast, ball came out near middle of side, breaking one rib in two places, and injuring right lung; also gunshot wound in right thigh; ball entered the rear and thick part of thigh, coming out near center of thigh, causing paralysis of the whole leg.

J. H. Gilkey, examining surgeon, reports the disabilities permanent, and rates them to about one-half in the aggregate.

F. C. Griffin, the special examiner of the Pension Office, closes his report with the following language:

"As the case now stands I am compelled to submit it for rejection on the ground that there is no record evidence of this man being in the service. My sympathy is with the claimant; he has four large cicatrices on his person, indicating two very severe gunshot wounds. He is an illiterate man; bears a good reputation for credibility."

In addition to the foregoing testimony, and the implied belief of the special examiner in the merits of the case, the committee call attention to the fact that the regiment was on service in a hostile country, and its records were not and probably could not be kept and filed with regu larity and accuracy.

The committee are of the opinion, therefore, that the technical objection of the Pension Bureau should not prevail against the merits of a worthy case, and they recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 980.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 464.]

The Committee on Pensions, to whom was referred the bill (H. R. 464) granting a pension to Robert McAlexander, have examined the same, and report as follows:

The claimant, late a private in Company F, Eighty-seventh Indiana Volunteers, claims pension for injuries received in the line of duty at the battle of Chickamauga, Ga., in September, 1863. He was on duty at brigade headquarters as an orderly and entered the battle a sound man. A cannon-ball killed his horse under him and in his fall the pommel of his saddle struck him in the lower part of the abdomen, inflicting severe injuries to the groins. His claim for pension was rejected on the ground that there existed no connecting medical evidence from the time of receiving the injury to the date of its proper development; that is, between the 6th and the 12th of June.

While there was no eye-witness to the receiving of the injury, the evidence of surgeon treating him, and that of his comrades, is sufficient, in the opinion of the committee, to clearly establish the truth of the claimant's allegations in his filed declaration for pension. The following synopsis of the testimony is taken from the report of the House Committee on Invalid Pensions:

Dr. Charles E. Triplett, late surgeon of the Eighty-seventh Regiment Indiana Volunteers, testifies that he treated claimant on the battlefield of Chickamauga, Georgia, for injuries in the bowels and groins, and told claimant at the time that the injury would result in a double rupture. The doctor further states that claimant was a brave and valiant soldier.

Horace C. Long, late captain of Company F, Eighty-seventh Indiana Volunteers, testifies that he saw claimant go into the battle of Chickamauga with General Vandever and his escort; that soon after the said McAlexander's mishap—which was that his horse was struck by a cannon-ball, and fell upon him, injuring his groins and the lower part of his belly, which subsequently resulted in rupture—he, the affiant, was informed of the fact, as it was near his regiment that the injury occurred. Captain Long states that he was not an eye-witness to the occurrence, but the surrounding circumstances were such that he has no doubt whatever as to the facts as previously set forth. He further states that McAlexander was a brave soldier and faithful to every duty, serving his entire time of enlistment, from 1862 to 1865, in active service, and had he gone to the hospital after receiving his injury he could very easily have had a hospital record sufficient to give him a pension, but as he was full of "eternal grit" he continued in the line of duty although suffering continuously, until honorably discharged at the close of the war.

The committee are of the opinion that the facts and evidence adduced are sufficient to justify the soldier's claim, and they therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 981.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5603.]

The Committee on Pensions, to whom was referred the bill (H. R. 5603) granting a pension to Mrs. Catherine McCarty, have examined the same, and report as follows:

The committee find the report made on this case by the House Committee on Invalid Pensions to be fully corroborated by the papers and evidence, and to clearly set forth the peculiar circumstances under which the claimant's husband died. This committee present the said report herewith, and adopt the same, as follows:

That Catherine McCarty is the widow of John McCarty, late a private of Company B, First Missouri State Militia Volunteers, who enlisted February 5, 1862, and died at Clinton, Mo., April 8, 1864, while in the service, under the following distressing circumstances, as testified to by comrades S. Black, R. Carter, J. R. Rhoades, and W. H. Cole, in the following joint affidavit:

"Thomas Collen, a member of company, got some medicine from the surgeon and came in smelling and tasting of it, and asked John McCarty, who was nearest him, to smell and taste it, as it had a peculiar smell and taste; said McCarty did so, and shortly afterwards got very sick and commenced vomiting, and died the next morning in great agony."

This is confirmed by records now on file in the War Department and by affidavit of J. G. Hart, late surgeon of soldier's regiment, who testifies that McCarty, while on duty in the service at Clinton, Mo., took some medicine (fluid extract of colchicum, which had been prescribed for another soldier) through a mistake, and died about thirty hours thereafter.

His widow filed application for pension, which was rejected on the ground that "the soldier's death was caused by his taking poison, not the result of any disease contracted in the military service." The Pension Office, under the law, could not have done otherwise, but Congress can, and your committee believe should recognize the fact that this woman had given her husband and the father of her children to the service of her country, and that while so serving his country he lost his life. It is true it was by a careless accident, but yet one that under the peculiar circumstances might have happened to any one.

He served his Government faithfully for nearly two years; he left a widow with four children, to fight life's battles alone; she is now old and very poor, and, in view of the services rendered by her husband, richly deserves the small recompense of a widow's pension during her few remaining years; wherefore we recommend the passage of the bill.

This committee agree in the conclusions reached in the foregoing, and likewise recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 982.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5881.]

The Committee on Pensions, to whom was referred the bill (H. R. 5881) for the relief of Henry S. Cohn, have examined the same, and report as follows:

In a close and careful examination of the papers in this case, the committee find that a substitute was reported to and passed by the House, by its Committee on Invalid Pensions, to whom had been referred the bill H. R. 909, the object of which is to place the claimant, Henry S. Cohn, on the pension roll as late lieutenant of Company C, One hundred and sixth Ohio Volunteers. He appeared on the pension roll at this time as first sergeant of the same regiment. The reasons for changing his rank from a non-commissioned to a commissioned officer, and increasing his pension in accordance therewith, are given in the following summary, taken from the report made by said House Committee on Invalid Pensions, accompanying the substitute for the bill H. R. 909:

Henry S. Cohn enlisted as a member of the Ohio La Fayette Guards in 1861, he at the time being only fifteen years of age, and continued therein for about four months, participating in the first Bull Run fight, when he was mustered out of service on account of expiration of term of service. He then enlisted in Fifth Virginia Regiment, and was appointed drum-major. Was honorably discharged therefrom in August, 1862, and at once joined the One hundred and sixth Ohio Volunteer Infantry, and at the organization thereof was appointed first sergeant of Company G, then at the age of eighteen years, and served in that capacity until December, 1862.

When at the battle of Hartsville, Tenn., his captain was killed, and the first and second lieutenants both mortally wounded, he took command of his company during the battle, and although his comrades were being killed at a fearful rate, this gallant young soldier led his company on to the hottest of the battle until a bullet prostrated him, inflicting a severe wound, from which he has never recovered and for which he is now drawing a pension. During this battle his entire brigade was captured and carried away as prisoners, leaving him with his killed and wounded comrades on the bloody field, when the surgeons of the Confederate army came on the field and carried him with other wounded soldiers to Church Hospital, where he lingered for many months, until he sufficiently recovered to be removed to Camp Denison, Ohio, where he rejoined his command, and, although his wounds had not healed, but were constantly troubling him, he was transferred to Company C, One hundred and sixth Ohio Regiment, and was by regimental orders appointed lieutenant of said company, and served in that capacity from February until 22d day of May, 1863, when he was discharged on account of disability, resulting from his wounds.

The committee believe that, with such a record as the foregoing, Sergeant Cohn is entitled to the rank of lieutenant, and to be so rated on the pension-roll, and therefore recommend the passage of the substitute, H. R. 5881.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 983.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5882.]

The Committee on Pensions, to whom was referred the bill (H. R. 5882) granting a pension to Sarah Ann Murphy, have examined the same, and report as follows:

The committee find the following brief summary of the facts in this case in the report of the House Committee on Invalid Pensions:

James Murphy enlisted as a private in Company K, Twentieth Regiment Kentucky Volunteers, on November 21, 1861, and was killed in battle with the enemy October 20, 1863, at Philadelphia, Tenn. His widow, Sarah Ann Murphy, applied for pension June 28, 1880, which was rejected June 28, 1883, on the ground that said soldier was at the time he was killed absent from his own company and regiment without leave, and was acting with and fighting in Company K, First Kentucky Regiment.

Said soldier seems to have been at home on furlough, and on his way to join his command he fell in with said last-named company and regiment, and was trying to find his own command, but before he could ascertain the whereabouts of the Twentieth Kentucky Regiment the said First Kentucky Regiment had an engagement with Confederates, in which said soldier participated and was killed.

A thorough examination of the papers verifies the statements in the foregoing report, and the committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 984.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5394.]

The Committee on Pensions, to whom was referred the bill (H. R. 5394) granting a pension to Sally Ann Bradley, have examined the same, and report as follows:

That they find a report was made on this case by the House Committee on Invalid Pensions during the Forty-eighth Congress, and that the bill granting the claimant a pension was passed by the House, but did not reach the Senate in time for action. The committee herewith present said report and adopt it as part of their own, as follows:

Sally Ann Bradley is the widow of Thomas J. Bradley, who served as a private in Company D, Twenty-fourth Ohio Volunteers, from June 13, 1861, to October 9, 1865. He was pensioned on account of shell wound of back received at Murfreesborough, Tenn., January 2, 1863, and died October 21, 1882. His death is not entirely chargeable to his military service, and consequently his widow has no title before the Pension Office.

A petition signed by nearly three hundred of the best citizens of the county in which she resides, some of whom have known her and her deceased husband for many years before the late war, sets forth that she is seventy years of age, is as helpless as an infant, and left without means of support, or friends able to assist her.

Having been left destitute by the death of her husband, who served faithfully for more than four years in defense of his country, and who, while in such service, contracted a disability which necessarily impaired his ability to provide for himself and wife a comfortable support in their declining years, your committee are clearly of opinion that she should not now be abandoned to the charity of the world, but be, in a measure at least, provided for in her old days, and therefore report favorably on the bill and ask that it do pass.

An examination of the papers in the case verifies the foregoing statements, and the claim is strengthened, in the opinion of the committee, by the fact that four of the claimant's sons followed their father in the war for the Union, two dying on the field of battle, and the other two returning home cripples for life through wounds received.

The committee believing this to be a very worthy case, recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 985.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2210.]

The Committee on Pensions, to whom was referred the bill (S. 2210) granting a pension to Anna Wright, have examined the same, and report as follows:

Silas Wright was a private in Company A, Twenty-third New Jersey Volunteers, and died in hospital at Washington, D. C., on May 24, 1863, from wounds received in action at Salem Heights, Va., on May 3, 1863.

The papers in the case show that during his term of service this soldier sent his pay to Anna Wright, his dependent mother and the claimant herein. Mr. George Rigg, for many years the collector of taxes in Burlington, makes return that Mrs. Wright was possessed of no real or personal property.

Margaret Giberson and Rebecca Cooper, neighbors and friends, testify that the household effects of the claimant do not exceed in value $35; also, that of their own personal knowledge the son, Silas Wright, sent money to his mother during the term of his service, until his death. John C. Reed, a comrade in the same company with the said Silas Wright, testifies that he personally knew of the claimant's son sending his pay, when received, to her.

Samuel Minnick, an employer at different times of the claimant's son, makes affidavit that of his own knowledge the son took his wages, when he received them, to his parents or spent them for their benefit. The same witness further testifies that the husband of the claimant was not able to furnish her a comfortable support from 1860 to 1864, inclusive, and still less able since that time to the present, owing to increasing years and infirmities. Charles S. King, an employer of the husband, George Wright, states that for some time the said George Wright was employed by him, receiving about a dollar a day when he was working, but for many years has been incapacitated for work.

Your committee are of opinion that this claim is a valid one, and that the claimant, now over seventy-eight years of age, is entitled to a pension. They therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 986.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2167.]

The Committee on Pensions, to whom was referred the bill (S. 2167) granting a pension to Mrs. Margaret Dunlap, have examined the same, and the papers therewith submitted, and report:

The petitioner is the widow of Archibald Dunlap, who died in 1850, and the mother of James F. Dunlap, a corporal in Company H, Seventh Cavalry, Missouri State Militia Volunteers, who enlisted at Sedalia, Mo., April 21, 1862, and died at Warrensburg, Mo., July 9, 1864, of wounds received in service, leaving neither widow nor minor child to him surviving. The cause of death is clearly set forth in the following affidavit:

STATE OF MISSOURI,
County of Johnson, ss:

On this the 22d day of April, A. D. 1872, before me, circuit clerk in and for said county and State, personally appeared G. Will Houts, a resident of Warrensburg, Mo., who, being first duly sworn according to law, declares that in the summer of the year 1864 he was duly commissioned and on duty as second lieutenant of Company H (R. M. Box, captain), in the Seventh Regiment Missouri State Militia Cavalry, United States Army; that at the time mentioned affiant was in command of an outpost near Warrensburg, in the State of Missouri, and kept out a picket or patrol guard day and night; that on the 5th day of July, in said year, James F. Dunlap, a corporal in said company, and then under affiant's immediate command, was in camp during the afternoon, and observing some of his comrades engaged in a scuffle or fight, interfered and undertook to separate the combatants, whereupon one of the parties engaged, without just cause or provocation, inflicted a wound on the person of said Dunlap by stabbing him in the breast; that he was immediately removed to the United States Hospital at Warrensburg, Mo., and every attention given to him, but within a few days the injury resulted in death; that the soldier who inflicted the wound was a member of the same company and regiment as Dunlap, and was, in July, 1864, sentenced to five years' imprisonment in Missouri State prison by sentence of a general court-martial. His name was James Capehart (see muster-out roll of Company H, Seventh Cavalry Missouri State Militia); that said Dunlap left surviving him no wife or children, and that his dependent mother, Margaret Dunlap, a widow, is a resident of Churchville, Va.

And to his testimony that said Dunlap died of a wound received in the line of duty, affiant adds the statement that said Dunlap always bore with his officers and comrades the highest character for knowledge of and devotion to his duties as a soldier.

Affiant further reports that he has no interest whatever in the prosecution of this claim for pension to Margaret Dunlap, and that his post-office address is Warrensburg, Mo.

G. WILL HOUTS.

Sworn to and subscribed before me the day and year above written; and I certify that I am personally acquainted with the affiant and know him to be credible, and that I have no interest in the prosecution of this claim.

C. C. MORROW,
Circuit Clerk, Johnson County, Missouri.

The record of the court-martial proceedings obtained from the War Department is as follows:

CHARGE: Murder.

Specification: In this that he, James Capehart, private Company H, Seventh Regiment of Cavalry Missouri State Militia, being a regularly enlisted soldier in the United States service, did, on or about the 5th day of July, 1864, wantonly, maliciously, wilfully, and with malice aforethought, kill and murder one James Dunlap, private Company H, Seventh Regiment of Cavalry Missouri State Militia, by stabbing him with a knife. All this at Hobson's Station, on the line of the Pacific Railroad, in Johnson County, Missouri.

FINDING.

Of the specification, "Guilty," except the words, "with malice aforethought."
Of the charge, "Not guilty," but guilty of manslaughter in the second degree.

SENTENCE.

To be imprisoned for the term of five years in the Missouri State penitentiary.

HEADQUARTERS DISTRICT CENTRAL MISSOURI,
Warrensburg, Mo., July 28, 1884.

Finding and sentence confirmed; in accordance with the provisions of the sentence, the prisoner will be forwarded to the Missouri State penitentiary, at Jefferson City, for confinement therein during the time specified in the sentence, under the direction of the provost-marshal of this district.

A. PLEASONTON,
Major-General, Commanding.

Official copy.

J. HOLT,
Judge-Advocate-General.

It further appears from the papers in the case that James F. Dunlap for years paid rent, and contributed to his mother's support continuous sums of money until the outbreak of the war, when communications were destroyed. Mrs. Margaret Dunlap is eighty-two years old, and her worldly possessions consist of meagre household furniture of no appreciative value.

Your committee think, from the peculiar circumstances of the case, the extreme age of the claimant, and the hardships she endured, that she is deserving of a pension, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 987.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1802.]

The Committee on Pensions, to whom was referred the bill (S. 1802) granting a pension to Isaac Harter, have examined the same, and report:

The petitioner in this case is Isaac Harter, who enlisted August 8, 1862, as a private in Company C, Tenth New York Heavy Artillery, and was discharged June 23, 1865. His claim for a pension is chronic rheumatism, and the Pension Office rejects him on the ground of "no disability."

In his declaration the claimant alleges the incurrence of the disease while on picket duty in a severe storm, on which he served forty-eight continuous hours without relief; that he has suffered from it more or less ever since, and that he is at times disabled from doing any manual labor; that he was not treated in hospital, but by the regimental surgeon.

The report of the Adjutant-General says:

> The records of this office do not show the disability alleged.

They seldom do, and if the soldiers depended only on record proof there would be few pensions granted. The evidence procured by the Pension Office from its examining surgeons sustains its decision of "no disability"; which is conclusive, but, in the opinion of the committee, too sweeping. Dr. Cyrus Kay, jr., of Herkimer, N. Y., says he has known claimant ten years, and he knows that he has been and is a great sufferer from rheumatism, abdominal and muscular.

Isaac Doxtator, a citizen of Herkimer, makes affidavit in these words:

> Have been acquainted with Isaac Harter for about 47 years. He came to live with me when about ten years old, and up to the time of his enlistment he was not troubled with rheumatism; but since he came out of the Army he has had it a great deal. I remember one time in particular I was at his house visiting, and he had it so bad I was up with him most all night.

And he adds that it increases with the years.

The facts in this case are not, apparently, as well developed as they might have been; but, with the proof at hand, the committee find that this man served through his term of enlistment, with a good record as to the quality of his service; that he was sound when he entered upon the hard duty of a soldier; that he is far otherwise now. His own statement, made under oath, inasmuch as he is a man well vouched for as to his integrity, should have some weight, and it seems to the committee

that from his own plain description of his exposure he may very readily have incurred a permanent and pensionable disability. The committee cannot undertake to account for the contradictory testimony of the Pension Office examiners and that of the attending physician. Such contradictions are common; but in this case the evidence given by the doctor who has for many years attended the man is corroborated by one who has known him from boyhood.

This bill is reported favorably, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 988.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2196.]

The Committee on Pensions, to whom was referred the bill (S. 2196) granting a pension to Dillian Vandeventer, have examined the same, and report:

The petitioner is an applicant as dependent mother of Jacob Vandevender, who was a private in Company D, One hundred and forty-ninth Regiment Indiana Infantry, who died at Huntsville, Ala., August 29, 1865. The Commissioner of Pensions rejected the application on the ground of non-dependence at the time of the son's death, and on the admission of the father that for a period subsequent to the son's death he was able to work and support his family. There is no attempt to conceal the latter fact. The father did work and supported his family, and there was no effort to obtain a pension until he became physically disabled, as is proven by medical and other evidence, and they were menaced with poverty. Under a rigid and arbitrary construction relief might be denied these people in old age, infirmity, and need, on the ground assumed by the Pension Office that there was no dependence at the time of the son's death; but the fact remains that there is now and for a long time has been dependence, that both are dependent, and that this condition of distress might not exist if the son was alive to aid them, now that they are old, poor, and infirm. It may be that no legal obligation exists to extend to them the very small and inadequate relief provided for in this bill, but the committee are of the opinion that the moral obligation will be recognized, and that Congress will freely extend the aid that can be conceded from no other source.

The bill is reported favorably, with a recommendation that it do pass.

The bill is amended so that wherever the word "Dillian" occurs it shall read "Delilah," and wherever the word "Vandeventer" occurs it is changed to "Vandevender."

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 989.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2326.]

The Committee on Pensions, to whom was referred the bill (S. 2326) granting a pension to John Parkinson, have examined the same, and report:

The claimant was a private in Company G, Third United States Infantry, and alleges disability contracted in the service. His application is rejected by the Pension Office on the ground that the diseases complained of existed before enlistment, or were not contracted in the service. This would hardly seem good ground for rejection, inasmuch as the record shows that the soldier was three times accepted, and served until discharged. If he was not a sound man it is singular that the recruiting service did not discover it, and that his unsound condition was not known until he applied for a pension. Upon the question of his disability, claimed to have been contracted in the service, and for which he was discharged, the evidence is contradictory. The soldier claims that he suffers from gravel, and the official reports state that he was sick in hospital, but the nature of the sickness is not given. From the statement contained in his discharge it is apparent that he suffered severely, and the board of examining surgeons certify to the fact that he has a good-sized stone in the bladder.

As to his prior soundness Curtis Reed, of Menasha, Wis., the home of the claimant, testifies that he has lived twenty years or more within eighty or a hundred rods of the claimant's father, and has known the claimant well; that he was hitherto a sound, robust man; that he has often employed him; and he certifies that his habits are good.

James C. Kerwin, also of Menasha, has lived a near neighbor to claimant many years, and knows that he was sound. Frederick Hexner, of the same place, gives similar testimony. Dr. Foy, also of Menasha, has known Parkinson, father and son, a long time, and is certain that the latter was before enlistment a healthy man. These witnesses are known to the Senator who makes this report, and who can vouch for them as men of the highest standing.

The committee are not skilled in surgery or medicine sufficiently to determine what diseases a man may or may not be liable to incur while leading the rough life of a soldier and subject to exposure; but it does not require a nice discrimination to realize that whereas this man went into the service in good health, now he is sick and seriously disabled.

Even if it were possible that the broken condition in which it is alleged this man was in at the time of his enlistment escaped the detection of the. recruiting surgeon, it would not be just, inasmuch as he was accepted, and is now poor and dependent, to refuse him a pension for a service, which, if it did not produce, must have greatly aggravated his sufferings.

The bill is reported favorably, with a recommendation that it do pass.

C.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 990.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2325.]

The Committee on Pensions, to whom was referred the bill (S. 2325) granting a pension to Nancy Mason, have examined the same, and report:

On the 2d of September, 1884, William A. Mason filed an application for a pension for disability contracted in the Army, and alleging chronic rheumatism. He was a private in Company K, Third Wisconsin Cavalry, enlisted February 29, 1864, was discharged September 29, 1865, serving one year and seven months. In his declaration he says his disability commenced directly after his discharge, and that he had suffered continuously from that time until he applied for a pension. From an examination of the papers in the file, it does not appear that his case was very thoroughly investigated. There is no report from the records of the Surgeon-General, and, as usual, that of the Adjutant-General says, "Regimental hospital records or company returns not on file." It identifies the soldier and his service, and shows that his standing is good.

The Pension Office ordered the claimant before an examining surgeon. In the surgeon's report he relates what the soldier told him, among other things that he thought he had rheumatism because the doctor told him so; also, that he had a fit. The doctor's conclusion is that there was no rheumatism, but that he had disability from epilepsy and congestion of the liver, and from these there was an aggregate of total disability; but in his opinion it was not incurred in the service. There is no other report of a medical investigation of the man's case. The medical referee of the Pension Office thought the hospital records should be obtained before final action, but they were not. Again, the same referee was of the opinion that the claimant had mistaken his diagnosis; that the disability was not rheumatism, but from disease of liver; and it was finally concluded that he should be ordered before a board of examiners, but there is no record of any such proceeding. So far as the Pension Office is concerned the case is in a very imperfect condition. On the 21st of August, 1885, Dr. Earle H. Ostrander, of Appleton, Wis., says:

> I certify that William Mason of Company K, Third Wisconsin Cavalry, died on February 21, 1885, from or of renal dropsy and other complications, said to have been contracted while in the service. I was his family physician before he enlisted, and never knew him otherwise than a healthy man.

The claimant's neighbors, Alfred Greely and Randall Johnson, testify to his disability immediately after his return from service; he was a

cripple and could not labor, and so continued. It is shown that by reason of his sufferings and poverty he was unable to go to the examining surgeon, and that he was a suffering, helpless man for years before he died.

In the opinion of the committee his disability is sufficiently shown; that he died from disease contracted in the service, and that it is not material by what name it is called. There is also proof that Nancy Mason, for whose relief the accompanying bill provides, was his wife. The bill is reported favorably with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 991.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2061.]

The Committee on Pensions, to whom was referred a bill (S. 2061) granting a pension to Johanna Sofia Enlind, have examined the same, and report:

The petitioner is the dependent mother of Alexander Enlind, who was a private in Company I, Thirteenth Connecticut Volunteers, and who, as the record shows, joined the service in August, 1862, and died of "febris typhoides," contracted in the service, May 27, 1863.

Her dependence upon the soldier for support is proven by the sworn testimony of reputable merchants and citizens of Helsingborg, Sweden, who "testify according to truth and under oath," that in December, 1863, she was divorced from her husband, who, prior to this, was a dissipated man and failed to maintain her. H. A. Witt, rural dean, and rector of Helsingborg, makes affidavit of this, and to the fact that she has not remarried. A. W. Naystrom, also of Helsingborg, gives testimony as to the divorce, and says that at the time of her divorce she was utterly poor, and has not since had any income other than that she has been able to make by her own work, her small earnings not even being sufficient to supply her most indispensable wants, and that she is still completely destitute of all means.

Other citizens of Helsinborg contribute similar testimony, and there is official proof of their reputable standing, and verifying their signatures. There is also evidence to show that she is the mother of the soldier and that he recognized his obligation and declared his intention to support her.

Thus the dependence, the relationship, and the son's acknowledged willingness to aid her are established. His service and his death as the result of that service are proven by the record; and the fact that the mother is now an inmate of an asylum for the poor ought to convince any reasonable mind that she is in the deepest poverty.

In the opinion of the committee this is a case to which relief cannot be extended too promptly. Her boy was sacrificed in the service of the country of his adoption, while she suffers degradation and want in the home of her nativity. Nearly four years ago she applied for the pension to which she was clearly entitled and to which she has established an undoubted claim, and which, in the opinion of the committee, it would be criminal longer to withhold.

The bill is reported favorably with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 992.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2181.]

The Committee on Pensions, to whom was referred a bill granting a pension to Rhoda Williams, have examined the same, and report:

The petitioner in this case is Rhoda Williams, widow of John M. Williams, who was a private in the First Iowa Battery Light Artillery Volunteers. Her husband applied for a pension in September, 1877, alleging chronic disease of the eyes, contracted by exposure while in service at Kenesaw Mountain, Georgia. In his original declaration he describes the cause of disease and admits that he was never treated in any hospital or received any medical aid except what he gave himself and some of the soldiers gave him.

His captain, W. H. Gay, of Quincy, Ill., testifies that the men of his company, in the spring of 1864, before Kenesaw Mountain, many of them, were sick from exposure to the malarial climate and camp diarrhea, and refers to the sick reports of the battery for confirmation, which he believes will show that Williams was one of them who was suffering from malarial fever, camp dysentery, and sore eyes; and he identifies the claimant by a photograph of him.

Unfortunately in this case, as in the majority of cases, there is an absence of any record in the War Department and Surgeon-General's Office; but Dr. William H. Turmer, of Keokuk, Iowa, testifies that he knew the soldier in 1866 and 1867, after his return from the service; examined his eyes, and found him suffering from chronic ophthalmia of a severe character; that he was acquainted with him several years, and knows that he continued to suffer from this cause. There is other testimony, showing his soundness when he entered the service, and his continued disability, enough, in the opinion of the committee, to have warranted the allowance of a pension.

Now comes the widow and asks for relief on the ground that her husband's death was a result of disease contracted in the service. On this point we find the testimony of Dr. J. M. Bond, of Vincennes, Iowa, who says he was acquainted with the soldier for about nine years prior to his death, who died April 30, 1879; was his family physician; attended him for chronic ophthalmia of a virulent and progressive character, and that there was evidence of malarial poisoning. In his last sickness he suffered from cerebral congestion and congestion of the lungs, caused probably by ophthalmic inflammation extending to the brain, resulting in congestion and death.

Here was a man who went into the service in good health. He slept on the ground in a swampy country; was liable to and was stricken with malarial fever, camp dysentery, and inflamed eyes. Not from preference, but from necessity, he doctors himself, and accepts the aid of his sympathizing comrades. He was never well from that time, and dies, in the belief of a respectable and disinterested physician, of "ophthalmic inflammation extending to the brain," leaving his wife and children in poverty.

From the evidence before them, the committee believe that the soldier's disability and death were the result of diseases contracted in the service and in the line of duty.

The bill is reported favorably, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 993.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1897.]

The Committee on Pensions, to whom was referred the bill (S. 1897) granting a pension to Alexander Trimble, have examined the same, and report:

The claimant was a private in Company H, Seventeenth Iowa Infantry. He enlisted in 1862, and was discharged in 1865. He claims disability, permanent and acute, from chronic dyspepsia. There is no record testimony of his having been sick in the service, and he says the physician who treated him is dead, and he finds it impossible to procure the testimony required. The Adjutant-General's report, however, does show that he was several months a prisoner in the South, which is very strong circumstantial evidence that he may have incurred not only chronic dyspepsia, but almost any other disease to which the soldier is liable. His record as a soldier from the beginning to the end of his service is excellent, and his reputation as a man is of the best. His neighbors, quite a number of them, certify to his physical depreciation, and to his inability to do manual labor more than a small portion of the time. The examining surgeon testifies that he is ill from the cause specified by him; that he is reduced in strength; that his heart is affected, and his respiration at times difficult; and he adds that he has personal as well as professional knowledge of his disabled condition.

The committee are of the opinion that the claimant is entitled to the relief he claims and needs, notwithstanding his inability to furnish the full amount of testimony required. The bill is therefore reported favorably, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 994.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2203.]

The Committee on Pensions, to whom was referred the bill (S. 2203) granting a pension to Mrs. Emily M. Swift, have examined the same, and report:

The petitioner applies for a pension as dependent mother of James C. Swift, first lieutenant of Company B, First Alabama Cavalry, and who died at Glendale, Miss., November 3, 1863, of wounds received in battle. The soldier's identity, service, and death are not questioned, and the proof is ample to show that he was the only son of the claimant. The pension is denied by the Pension Office, on the ground of non-dependence at the time of his death. The facts are that the mother was living with her second husband, William Stephens, in the village of Dexter, Washtenaw County, Michigan, when her son enlisted, which was also the home of the latter. It is in evidence that the relations between the husband and wife were not pleasant; that the son gave his mother his bounty-money, and afterwards sent her portions of his pay, thus recognizing her dependence upon him independent of the fact that his mother had a husband who was under obligations to support her. It is also in evidence that the husband not only did not maintain her, but that he converted to his own use all the personal property she had; that he treated her with cruelty; that he procured from the estate of the soldier's father money that belonged to the son, converted it to his own use, and that the mother had no benefit from it. Also that the petitioner has been granted a divorce from her said husband, William Stephens, and that she is now sixty-seven years of age, in poor health, and dependent upon her relatives for support; and that she has resumed the name of Emily M. Swift.

In the opinion of the committee this is a case demanding relief that may properly be given. The bill is therefore reported favorably with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 995.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5622.]

The Committee on Pensions, to whom was referred the bill (H. R. 5622) granting a pension to Allen P. Jacobs, have examined the same, and adopt the report of the House of Representatives, and report with recommendation that the bill do pass.

That Allen P. Jacobs, of Owen County, Kentucky, before he was sixteen years of age was sent by his father to attend his sick brother, Elijah —. Jacobs, who was a soldier in Captain Williams's company, Colonel Whistler's regiment, in the war of 1812; that upon his arrival at Dayton, Ohio, where the United States troops were then located, he, the said Allen P. Jacobs, finding that his brother had recovered from his sickness, joined Col. R. M. Johnson's regiment in its pursuit of the Indians and British, and that on the 5th day of October, 1813, this command was engaged with the enemy at the battle of the River Thames; that young Allen P. Jacobs was conspicuous for his bravery in said battle, in which he was severely wounded by a bullet shot through the thigh, about midway between the hip joint and the knee. It does not appear from the records of the War Department that he was regularly mustered into the service of the United States, and therefore the Pension Office have not acted upon his application for pension; but that as a boy he volunteered, served gallantly in the field with the United States Army, and was severely wounded, as above stated, is clearly shown by the testimony filed with the papers in the case and examined by the committee.

This veteran is now nearly 89 years of age, he is almost helpless, and still a great sufferer from the wound he received in his country's service seventy-three years ago, and now in his old age he is compelled to live on the charity and kindness of friends.

Your committee recommend that the bill do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 996.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 427.]

The Committee on Pensions, to whom was referred the bill (H. R. 427) granting a pension to Thomas T. Smithers, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

[House Report No. 279, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 427) for the relief of Thomas T. Smithers, submit the following report:

Thomas T. Smithers enlisted August 10, 1861, in Company D, Twenty-eighth Illinois Volunteers, and was discharged March 25, 1862, for disabilities. He applied for a pension July 14, 1879. The case was rejected March 10, 1883, on the ground that the military record of said Smithers shows that the disease—fistula in ano and piles—for which said Smithers claims a pension existed prior to enlistment. The certificate of disability from which said record was made was dated February 25, 1862, at Fort Herman, Kentucky, by G. F. Farwell, captain, and in command of the company. Said certificate states that—

"The said soldier has been unfit for duty forty days. The disease, though unknown to me, seems to have existed prior to enlistment."

It appears from the evidence that the said Smithers has been suffering from the said disease ever since his discharge, and that he has been disabled all of that time from the effect of the same fully one half, and at many times he is a great sufferer from the effect of the same.

Hugh Ervin, the quartermaster of said regiment, testifies as follows: That said Thomas T. Smithers was frequently detailed to assist him in the duties pertaining to his office, and he particularly remembers his being detailed to assist building the barracks at Fort Holt, Kentucky, which required good, able-bodied men to perform the work, and never heard said Smithers complain of not being able to perform any task imposed on him, but, on the contrary, he was always ready and willing to cheerfully perform any such duty, and was considered a stout and able-bodied man, and that he was acquainted with the said Smithers for several years prior to his enlistment in the service, and he was always considered a stout, able-bodied man, capable to perform any kind of manual labor.

All the evidence agree that he was a good, faithful, and industrious soldier up to the time of his sickness at Fort Holt, and that he had performed his duty well. Some half a dozen or more of his comrades testify to the hard marching said Smithers did in going from Fort Holt to Camp Crittenden, and that in said march said Smithers was taken sick and never recovered while he remained with the regiment, and that he was discharged on account of said sickness.

Isaac C. Hillyer, a comrade who enlisted in the said regiment with the said Smithers, testifies that said Smithers and himself were examined in a *nude* condition by the medical examiner at Camp Butler at the time of enlistment, and that said Smithers was very carefully and minutely examined by the surgeon, and was pronounced sound

and able-bodied. A large number of Smithers's neighbors and acquaintances, who knew him intimately, some of whom knew him from a small boy, testify that he was an able-bodied man up to the time of enlistment, and free from fistula in ano or piles.

Isaac Turris testifies that said Smithers and himself followed well-digging just prior to said Smithers's enlistment, and that it would have been impossible for said Smithers to have had fistula in ano or piles without his knowing, and that he was a sound man, free from said disease.

William M. Sipe testifies that he knew said Smithers for about ten years prior to his enlistment; that for three years next prior to his enlistment he was with him almost daily, being employed with him at the depot of the Chicago, Burlington and Quincy Railroad, and engaged with him in shoveling grain, pushing cars, and all other kinds of hard manual labor arising from such a position, and knew of his own knowledge that he (Smithers) was not at that time afflicted with fistula in ano. On the contrary, he was one of the most rugged and able-bodied men in the community.

William Hammer and M. A. Jones make similar statements.

Your committee are clearly of the opinion that that part of said military record, that said Smithers's disability existed prior to enlistment, was an error, made probably for the sole purpose of getting said Smithers dismissed from the service.

Your committee therefore recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 997.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 116.]

The Committee on Pensions, to whom was referred the bill (H. R. 116) granting a pension to Albertine Cockrum, have carefully examined the same and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

This case was considered by the House Committee on Invalid Pensions at the first session of the Forty-eighth Congress and the following report made thereon, viz:

"Albertine Cockrum is the widow of E. B. Cockrum, late a captain in the Missouri Home Guards. Captain Cockrum derived his authority to perform military duty from an order of Brig. Gen. John Sanborne, then commanding the district of Southwestern Missouri, with headquarters at Springfield, Mo. By the terms of this order Captain Cockrum was authorized to scout with his home-guard company a section of the district in which he resided, driving out all bands of guerrillas and keeping the peace of that section of country, without compensation from the Government. The records in this case show that Captain Cockrum was at the time he received his death wound in the district assigned to him for duty and engaged in protecting loyal citizens, preserving the peace of the country, and defending and maintaining the Government against those in armed rebellion, and that he was in the line of duty at the time he received the wound which caused his death there is no doubt.

"Captain Cockrum was killed in action with the Confederate troops at Buffalo City, Ark. There is no question as to the cause of his death or the manner of it. He was attacked by the enemy, and while fighting bravely on the 21st of April, 1864, received the wound which caused his death. He never enlisted, however, in the service of the United States, but as captain of the company of home guards referred to was authorized to do duty in behalf of the United States. The claim was rejected by the Pension Office on the ground that claimant's husband was employed as a civilian, and that her application was not prosecuted to a successful issue prior to July 4, 1874. Proof of the service of the soldier is shown by the Adjutant-General's report, wherein he shows that claimant's husband was granted permission to perform police duty with his company. His widow, the claimant, is quite destitute, and your committee recommend that the bill do pass."

Upon which report a bill in the exact language of the one under consideration passed the House of Representatives January 23, 1885.

Your committee, believing that the above report correctly sets forth the material facts in the case, adopt it and recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 998.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6795.]

The Committee on Pensions, to whom was referred the bill (H. R. 6795) for the relief of Mrs. Sarah Casteel, have examined the same, and report:

That an examination of the proof in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6795) for the relief of Sarah Casteel, have had the same under consideration, and beg leave to submit the following report:

On March 12, 1870, the claimant filed her application for pension as the widow of Abraham Casteel, late private Company F, Twelfth Missouri State Militia, who, as she alleged, died October 6, 1862, of disease contracted in the service.

Accompanying this application she filed the affidavits of Drs. H. J. Smith and James R. McCormick.

The former testifies that he was called upon in October, 1862, to treat claimant's husband for subacute peritonitis, and that he continued treatment until October 6, 1862, when the soldier died of said disease.

Dr. McCormick testified that he commenced treating the soldier about two weeks before his death for carbuncle of nape of neck, and continued treatment therefor until October 6, 1862, when he died.

On June 24, 1871, Drs. Smith and McCormick filed a joint affidavit setting forth that they are informed of discrepancies existing in their respective affidavits as to cause of soldier's death, and in order to reconcile such discrepancy now jointly declare that they are firmly of opinion that the cause of soldier's death originated and was caused by a carbuncle in the spine, superinduced by peritonitis, attributable to the absorption of unhealthy pus from the carbuncle—peritonitis being the immediate cause of death.

Adjutant-General reports soldier enrolled April 11, 1862, and discharged August 1, 1862, by reason of disability, "cause, camp duty." No certificate of disability or any other information on file.

Captain Whyback testified, February 12, 1870, that soldier was in good health at time of enlistment, and that about March 25, 1862, from exposure in the service, he contracted carbuncle of back.

Dr. Smith again testified in November, 1875, that he treated the soldier for carbuncle, while in the Fourth (Sixth) Missouri State Militia, and that the same resulted in peritonitis.

The adjutant-general of Missouri reports that claimant's husband served in Company B, Sixth Missouri State Militia, from September 28, 1861, to February 25, 1862.

D. B. Casteel, son of claimant, testifies that his father was taken sick June 11, 1862, and sent home. Could walk about the house, but grew worse, and died October 6, 1862.

Claimant, in October, 1884, testifies that upon the return home of her husband the doctor applied a blister to small of back. The blister was large and would not heal, and about July 11 it took form of a carbuncle. There were two, one on small of back, 4 or 5 inches in diameter, and the other one above, about half of that size. Soldier

became paralyzed in lower extremities about the last of July, having no use whatever of the limbs or bowels, necessitating injections to move the latter. Went once twenty-seven days without a passage.

Sarah E. Groom testifies that she assisted in the care of the soldier from about June 1, 1862, until his death. Dr. McCormick, under date of December 7, 1883, testifies that the carbuncle was large, involving back of neck. The spine was affected and paralysis of lower extremities showed itself a few days before death; cannot now say whether paralytic condition was depending upon blood poison. The soldier was in the service for nearly a year, was sick when he was discharged, and died two months after, having continued to grow worse during that time.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 999.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6797.]

The Committee on Pensions, to whom was referred the bill (H. R. 6797) granting a pension to Samuel W. Bowling, have carefully examined the same and adopt the report of the House of Representatives, and report to recommend the passage of the bill.

We find that a similar bill granting a pension to claimant passed the House during the Forty-eighth Congress.

Your committee, after an examination of the papers, adopt there port of the Committee on Invalid Pensions of the Forty-eighth Congress, which is as follows:

"Samuel W. Bowling was a private in Company D, Eleventh Kansas Cavalry, and served with credit during the war up to August 31, 1864, when he was discharged on account of disability growing out of a lame and ulcerated leg. The claimant before enlistment received a gunshot wound above knee. The claimant shows that he had an ulcerated leg below the knee, and has now, and that same from injury received in the service in line of duty. The ulceration and enlargement of veins is at least 10 inches below the wound. It may be that the gunshot wound predisposed to some tenderness, but it is clearly shown that it is not the cause of the disability. The claimant, on the contrary, shows that he was sound at date of enlistment.

"DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
"*Washington, D. C., May* 19, 1884.

"DEAR SIR: Touching the claim of S. W. Bowling, Company D, Eleventh Kansas Volunteers, of which you requested me to officially certify, I have the honor to state that the evidence is that he incurred a gunshot wound of the left leg prior to enlistment, in consequence of which the calf of that leg is now considerably enlarged, and the leg the subject of ulceration, due to venous congestion. These conditions disable the claimant quite seriously, certainly entitling him now to a 'total' rating.

"Very truly, &c.,

"T. B. HOOD, M. D.,
"*Medical Referee.*

"Hon. C. H. MORGAN,
"*House of Representatives.*

"The above letter is made part of this report.

"Wherefore your committee report the bill back, with the recommendation that it do pass."

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1000.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6590.]

The Committee on Pensions, to whom was referred the bill (H. R. 6590) granting a pension to Catherine Whitesell, have carefully examined the same and adopt the report of the House, and report in favor of the passage of the bill.

That the evidence shows that Dr. G. L. Whitesell was a physician of high standing in Allegheny County, Pennsylvania; that in June, 1862, the Sixty-third Regiment Pennsylvania Volunteers was lying near Harrison's Landing, James River, Virginia; that they had a large number of sick and wounded, who were suffering from want of medical attention, the surgeons having from some cause deserted the regiment, leaving the sick and wounded without care. In response to a call from the Government of the United States for volunteer surgeons, Dr. G. L. Whitesell, of Harmarville, Allegheny County, Pennsylvania, went to Harrison's Landing, Virginia, and at the request of General Alexander Hays, then commanding the Sixty-third Regiment Pennsylvania Volunteers, he was assigned to duty in that regiment. He entered upon the duties of surgeon of that regiment July 2, 1862, laboring day and night to relieve the suffering of the sick and wounded, which are best described by his letters to his wife, dated July 7 and July 13, 1862. He said:

"I am overworked, as I am prescribing for two hundred and forty sick, and attending to other matters, such as signing orders. I have more than I bargained for."

Even the assistant he had with him deserted him. To use the doctors own words, "The sound of the cannon was too much for him," and he left the doctor alone. In his letter of July 13, 1862, to his wife, he says:

"I have got very sick this evening. I think I was never so sick in my life."

In his letter of July 17, 1862, to his wife, he realized the fact that his sickness would be fatal, and says:

"I leave for home in the morning, if living. If I get to Baltimore come and see me. God bless you and the children."

Simon Wickert, ambulance driver, says—

"On the 18th of July, 1862, I hauled Dr. G. L. Whitesell from the camp of the Sixty-third Regiment Pennsylvania Volunteers, to the hospital at Harrison's Landing Virginia, by order of Col. Alexander Hays, who told me to take great care of him, as he was a very sick man."

Dr. James B. Herron, of Allegheny City, Pa., testifies—

"Dr. G. L. Whitesell, contracted typho-malarial fever while doing duty in the Sixty-third Regiment of Pennsylvania Volunteers while stationed near Harrison's Landing, Virginia. My observation and treatment commenced July 13, 1862, and continued until the day he died, July 21, 1862; he was brought to the hospital July 18, 1862, and died July 21, 1862, at that place, of typho-malarial fever. He was known to me twelve years preceding his death; he was a vigorous man, engaged in a large practice, had a sound and excellent constitution prior to his entering the Army; his habits were very good. The disease which caused his death was contracted in the Army."

This evidence is corroborated by Dr. James McCann, Dr. William Clowes, and Dr. W. D. Kerns, all of whom are physicians in good standing in the city of Pittsburgh,

Pa. Col. Alexander Hays, commanding the Sixty-third Regiment Pennsylvania Volunteers, wrote to his wife, Annie Adams Hays, July 25, 1862:

"Dr. Whitesell came to us in our hour of need, and if he had been the angel of charity herself the visit could not have been more acceptable. At a time when all medical and surgical aid had deserted us, in our most trying hour of need, he came as a volunteer: his presence and counsels revived the drooping spirits of my men, but he overdid his duty and has been returned to his family a corpse."

Dr. James B. Herron testifies that Dr. G. L. Whitesell showed him a paper, which upon reading he found to be a contract accepting Dr. G. L. Whitesell as medical attendant for the Sixty-third Regiment Pennsylvania Volunteers, and to assume all duties as surgeon. Dr. James B. Herron advised him not to sign it, and he replied, "I must or my requisitions on the purveyor's boat for material for the sick will not be received."

Simon Wikert says:

"I was ambulance driver for the Sixty-third Pennsylvania Volunteers; Colonel Hays ordered me to report to Dr. G. L. Whitesell for duty every morning, as he was surgeon for our regiment. I have frequently been sent by Dr. G. L. Whitesell to the boat and hospital at Harrison's Landing for supplies for our sick and wounded, and always received them upon his written orders."

Capt. B. J. Reid, Capt. David Sheilds, Lieut. John S. Stevenson, Privates William H. McClarren, E. T. Saint. Harmar D. Lawson, and John Baird, testify that they received medical attention from the hands of Dr. G. L. Whitesell while he was surgeon of the regiment. Maj. James F. Ryan (formerly captain of Company I), Sergt. James Hines, Privates R. H. Miller, George Laing, and James N. McClarren, all testify that Dr. G. L. Whitesell did serve as surgeon of the Sixty-third Regiment Pennsylvania Volunteers during July, 1862, and believe he died from disease contracted while in discharge of that duty.

James B. Allison, editor of the Presbyterian Banner, of Pittsburgh, Pa., who was at Harrison's Landing at that time, adds to this evidence his personal knowledge of these facts, and says further:

"I officiated at his funeral when his body was brought to Pittsburgh, Pa."

An extract from a nurse's report, printed in the third semi-annual report of the Ladies' Aid Society of Philadelphia, Pa., says, referring to Dr. Whitesell:

"An earnest Christian leaving his comfortable home, which held a beloved wife and two little daughters, and patients, in the hands of Providence, he came to the Peninsula and found much more sickness and destitution than he had imagined. He devoted himself to the time orphaned sons of northern parents, he followed them through all that scene of blood and carnage, encouraging the sick and sustaining the wounded. He reached this place with one hundred and sixty sick and wounded, who looked to him as an infant to a mother for loving words and kind care. Sickness stole in upon him gradually but surely; he labored and suffered until his brother physicians brought him three days ago to the hospital. About 11 o'clock last night his soul passed to glory. I write a few words to his sorrow-stricken wife, and send her a lock of his hair."

It also shows that the members of the Sixty-third Regiment making these affidavits are men of honor, veracity, and good judgment, as testified to by the colonels, John A. Danks and A. S. Morgan, who is now an officer at the United States Arsenal, Pittsburgh, Pa.

Dr. Whitesell was cut off in the prime of life; he left a widow and two small children. The widow, now well advanced in life, should have the aid which she would have had if her husband's life had not been sacrificed in his country's service.

The committee recommend the passage of the bill.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1001.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6183.]

The Committee on Pensions, to whom was referred the bill (H. R. 6183) granting a pension to Bridget M. Cullen, have carefully examined the same, and adopt the report of the House, and report in favor of the passage of the bill.

Claimant is the widow of Patrick Cullen, late a soldier in the war of the rebellion. Said soldier enlisted October 5, 1864, One hundred and thirty-third New York Volunteers, and was transferred to Ninetieth New York Volunteers, about May 1, 1865, and was discharged October 18, 1865; died December 31, 1882. Widow filed her declaration for pension June 18, 1884. Soldier died of cancer of œsophagus, exhaustion, and starvation, at New York City.

Claim was rejected upon the ground that the origin of the fatal disease was not accepted as due to service; was not the result of diarrhea, fever, and rheumatism contracted in service. The evidence in the case is as follows:

John C. Henly swears that he knew soldier and served in same company; knew he was disabled while in the field; did not know nature of his illness; appeared entirely broken down in health. When first saw him in the company he was well, but the climate and exposure injured his health; soldier was disabled about the spring of 1865; cannot fix exact time; place was in Shenandoah Valley, Virginia. He complained of dizziness and debility, followed by chills and by stiffness in his joints. He was a very sick man; saw him daily; after his return he exhibited the same symptoms.

R. C. M. Page, attending physician, and R. J. McGay, M. D., house physician Northwestern Dispensary, New York City, swear that soldier was a patient at that dispensary from the 5th of November, 1865, to a few months previous to his death, 31st December, 1882, and during that time he was treated for diarrhea, intermittent fever, and chronic articular rheumatism, all of which diseases he contracted while in service. They further testify that the institution dispenses medicine and medical advice only to out-door patients, and no patients are admitted as inmates. Soldier was treated here for fever and ague and articular rheumatism; he first made his appearance there in the first week of November, 1865, and the last seen of him by affiants was in the summer of 1882; during the interval he was a regular attendant of this dispensary, except when he was in a hospital. Impossible to say how often he came; some years on an average of once a week.

An examination of the records of a dispensary, unlike those of a hospital, fails to show how often a patient calls to be treated, as entries are only made after examination, when a card is given the patient, which helps to identify him thereafter. Never knew of his doing any work, and don't think he was able to do much; his physical condition was such as to entitle him to a pension, in affiants' opinion.

Chief of staff, Charity Hospital, Blackwell's Island, Louis L. Seamans, certifies that Patrick Cullen was admitted to this hospital on February 24, 1866, with intermittent fever, and discharged, improved, March 1, 1866. Readmitted July 15, 1868, with same disease; discharged, improved, July 20, 1868. Again admitted, for rheumatism, July 21, 1874; discharged, improved, July 27, 1874. Again admitted, May

17, 1876, for same disease: discharged, improved, November 8, 1876. Again admitted, for malaria, August 30, 1878; discharged, improved, September 9, 1878.

F. M. Strong, M. D., chief of staff, Homeopathic Hospital, Ward's Island, New York, says records of this institution show that Patrick Cullen, age sixty, was admitted to the wards on June 28, 1880, suffering with intermittent fever, first contracted in the Army. He was discharged, improved, on July 1, 1880. Was readmitted July 18, 1882, suffering with chronic rheumatism, and was discharged July 21, 1882, improved.

Thomas C. Taylor, M. D., New York City, says: "Attended soldier in his last illness, and gave certificate of death on December 31, 1882, previous to which date he was a sufferer from general debility and rheumatism."

Arnold Stub, late surgeon Ninetieth New York Volunteers, certifies that he remembers that during the year 1865 a member of the regiment suffered from fever, intermittent, and rheumatism, and thinks it probable soldier was afflicted with said disease at that time, and that if it were possible to see and converse with soldier, might recall his case.

The committee are of the opinion that from the facts as above stated the said Patrick Cullen, deceased, incurred disability while a soldier in the war of the rebellion, while in line of duty, which finally resulted in his death, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1002.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4797.]

The Committee on Pensions, to whom was referred the bill (H. R. 4797) granting a pension to Robert H. Stapleton, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

Claimant enlisted January 1, 1862, in Third New Mexico Militia; was discharged April 1, 1862. He filed his declaration for pension July 17, 1882. His claim was rejected May 3, 1883, in accordance with paragraph 3, section 4693, Revised Statutes.

The affidavit of claimant shows that he received an injury to left side by the tongue of a caisson striking him while striving to take it across the river after the battle of Valverde, N. Mex., on or about the 21st day of February, 1862.

T. A. Davis, examining surgeon, certifies—

"That he finds indications of fractures of ninth, tenth, and eleventh ribs, as there seems to be an irregularity at the angle of end. He states that he was in bed from the injury six months, and has had dangerous attacks of pleurisy and pneumonia since that time; that he is unable to rest in bed upon the left side at this time. The injury resulted from his having been struck in the left side while attempting to stop an artillery team running with a caisson at the battle of Valverde, N. Mex., on February 21, 1862. I find a fracture-sound on auscultation at a point near the seat of injury; very considerable tenderness at this point on pressure; he is generally debilitated; has used stimulants to relieve the intense pain from the region of the injury. Colonel Stapleton is a man advanced in years, and would naturally experience more frequent attacks of sickness each year. He is not able to perform any labor of a clerical nature, this having been his former occupation. And was under treatment, when injured, of Assistant Surgeon Bailey, jr., U. S. Army. It is my opinion the disability was incurred in the service as claimed, and that it is not augmented or protracted by vicious habits. I find the disability to entitle him to a three-fourths rating."

Your committee believe the claim a meritorious one; that the injury was incurred in the service in the line of duty, and that claimant is unable thereby to perform manual labor, and recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1003.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1766.]

The Committee on Pensions, to whom was referred the bill (H. R. 1766) granting a pension to Mary A. Shannon, have carefully examined the same, and adopt the report of the House and report in favor of the passage of the bill.

The claim of this widow was rejected in the Pension Office on the ground that her husband died of a disease which originated after discharge.

The committee concede that the erysipelas which caused the soldier's death did not originate in the service, but we think it is clearly shown that the erysipelas did result from diseased eyes contracted while in the service and for which he was receiving a pension at the time of his death.

In support of this view of the case we quote the evidence of Dr. Watson, who testifies that he attended the soldier in his last illness for about one week prior to his death; that the immediate and remote cause of soldier's death was inflammation of the eyes, during the progress of which erysipelas set in, and resulted in his death; that the disease of eyes was the immediate cause of the inflammation. In a subsequent affidavit Dr. Watson states that the inflammation in the eyes took an acute form, probably from exposure, and was so great as to cause much redness of the eyes, and while in this condition erysipelas set in and spread all over the face and reached the throat, causing his death in about six days after erysipelas commenced.

The only material question involved in this case is, Did erysipelas result from inflamed eyes? Your committee think it did, and recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1004.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5174.]

The Committee on Pensions, to whom was referred the bill (H. R. 5174) granting a pension to Mrs. M. A. Lewis, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

We find that claimant is the mother of Thomas Lewis, a private of Company L, Second Illinois Volunteer Cavalry, who enlisted August 5, 1861, a mere boy, served faithfully until April 7, 1864, when he was taken prisoner at Union City, Tenn. August 20, 1864, he died of starvation in Andersonville prison. The claimant is now a widow, aged and poor. The father, while living, refused to apply for or accept a pension, because he could earn a living without the help of his Government. The simple statement of this case is the strongest argument in its favor.

Your committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1005.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2976.]

The Committee on Pensions, to whom was referred the bill (H. R. 2976) granting a pension to Lenford Rose, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

That Lenford Rose is the son of George W. Rose, who enlisted as a private, Company I, Fifth Regiment Michigan Infantry, August 27, 1861, was promoted to second lieutenant May 28, 1862, and to first lieutenant July 22, 1862, and captain June 23, 1863; died May 24, 1864, of wounds received in action at the battle of the Wilderness, Virginia, May 5, 1864. He left two children, Lenford and Benjamin F. Rose. Benjamin F. is poor; not worth a dollar; supports himself and family by days' labor. Lenford is now thirty-one years of age; is deaf and dumb, and was so from birth. He has no use of his left arm and hand, it being withered and drawn out of shape by contraction of the muscles. George W. Rose left no property whatever at the time of his death, and the pension given the children till they were sixteen was used up in their support. Lenford Rose, on account of his infirmity, is entirely unable to earn his support, and is living on the charity of friends and neighbors, having no relatives able to give him a home.

No soldier has a better military history than George W. Rose. Had he lived, his unfortunate son would not now be a homeless waif. He gave his life to his country, and this unfortunate orphan should be that country's ward.

We think this is a legitimate case for Congressional relief, and recommend the passage of the bill.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1006.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3166.]

The Committee on Pensions, to whom was referred the bill (H. R. 3166) granting a pension to Solomon Messer, have carefully examined the same, and adopt the report of the House, and report in favor of the passage of the bill.

Solomon Messer enlisted as a private in Capt. Nathaniel Kelsey's Company of North Carolina Volunteers, on the 4th day of March, 1837, to serve in the "Cherokee removal." He was honorably discharged at Asheville, N. C., on the 15th day of July, 1837.

His declaration, filed in 1881, shows that while in line of duty in said service, at Fort Delaney, North Carolina, he was rendered deaf in left ear by the accidental discharge or explosion of a gun. This declaration is corroborated by the testimony of two comrades who witnessed the accident. Another comrade, and who was also his neighbor from 1838 to 1882, testifies to the continuance of his disability during that period. His condition for thirteen years prior to 1882 was testified to by a physician who was also his neighbor. In 1882 he was examined by the medical examiner, whose report, together with the testimony of the above-mentioned parties, corroborates the statements made by Messer in his declaration and affidavit.

Claim was rejected on ground of "no record of alleged disability," and "claimant unable to furnish evidence of surgeon or officers as to receipt of alleged injury."

Messer alleges, as reason for not furnishing such testimony, that he did not know the whereabouts of his surgeon and some of his officers, while he knew that others of his officers were dead.

No evidence of disloyalty during late rebellion on file.

Your committee recommend that the bill be passed.

43TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1007.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5975.]

The Committee on Pensions, to whom was referred the bill (H. R. 5975) granting a pension to Michael McGraye, have carefully examined the same, and adopt the report of the House, and report in favor of the passage of the bill.

The claimant enlisted as a private in Company B, Ninety-eighth Illinois Volunteers, and was mustered into service at Olney, Ill., November 2, 1863, and was honorably discharged May 31, 1865.

At the battle of Selma, Ala., April 2, 1865, claimant received a severe gunshot wound in the face, for which soldier applied and received a pension of $4 per month March 16, 1866.

The disability resulting from said wound having constantly increased, claimant's pension was correspondingly increased from $4 to $8, $12, $18, and upon a rating of total third grade by a board of examining surgeons, is now receiving a pension of $24 per month. But the disability having rendered soldier entirely unable for the performance of mannal labor, he now asks that by special act his pension be increased to $40 per month on account of the fact that his wound has made him offensive to his friends and shuts him out from society, and in support of said application for increase the following strong and uncontroverted medical evidence appears on file with claimant's papers, now before this committee, in claimant's favor.

The board of examining surgeons at Bloomington, Ind., June 6, 1877, make the following report:

"Ball entered mouth, carrying away five upper and six lower teeth; lower jaw fractured left side, at anterior maxillary foramen. Jaw-bone discharged and continues discharging fetid matter from the seat of fracture. Several scars upon left side of jaw, and one on the right side of neck, the result of abscesses. Left cheek and corresponding angle of the mouth very much disfigured, and abnormal adhesion of cheek to lower jaw; left side of tongue shot away, on account of which articulation is very imperfect, deglutition difficult, and hearing very much impaired. We consider this case highly meritorious, and find his disability as described above equal to and entitling him to a 'total third-grade rating.'"

The board of examining surgeons, Columbus, Ind., April 14, 1880, from an examination, report as follows:

"Height, 5 feet 8 inches; weight, 129 pounds; respiration, 22 to 28; pulse, 106 to 110. We find gunshot wound of lower jaw, ball entering the mouth at symphysis of lower jaw, ranging down and to left, taking five teeth out of upper jaw and ranging down and to left, taking six teeth out of lower jaw and fracturing the same, also cutting away a portion of the tongue. We find a fistulous opening in lower jaw, about 2 inches from symphysis, from which there is a constant discharge of offensive matter. I pull down lower jaw, when it discharges at least one drachm of very badly smelling matter; fetid matter is also oozing from an opening in his neck, presenting an unsightly appearance. Nearly all the hair has fallen off claimant's head. He says fistulas close up occasionally, when erysipelas sets in and extends all over his head. When fistulas close he is sick, and when running he is cut off from society. He is nearly or entirely deaf in left ear, which discharges thin matter about every ten

days. Barbers refuse to shave him. We find his disability as described above to be equal to and entitling him to a total third grade."

The same board of examining surgeons, date of June 20, 1884, find condition of claimant as before, and in addition find soldier unable to perform manual labor, and again give him a total third-grade rating.

Drs. M. E. Phillips, John F. Ginolan, and J. M. Cook, resident physicians and surgeons of Nashville, Ind., claimant's home, find the claimant to be sorely afflicted with offensive ulcerations of the mouth, side of the face, and neck, loss of five upper and six lower teeth and a portion of the tongue, resulting in a very ugly disfiguration of the face and neck, impaired hearing and imperfect speech, difficulty in swallowing, and at present time claimant is totally unable to perform manual labor.

Your committee being unanimously of the opinion that this is a very deserving and meritorious case, report the bill favorably.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1008.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4145.]

The Committee on Pensions, to whom was referred the bill (H. R. 4145) granting a pension to Maria Kile, have carefully examined the same, and adopt the report of the House, and report in favor of the passage of the bill.

Nathaniel Kile enlisted as a private in Company K, Fifty-sixth Regiment New York Volunteers, on the 23d day of October, 1861, and died while in the service September 25, 1862, leaving no widow or child surviving.

His mother, Maria Kile, filed her claim for a pension, and it was rejected April 17, 1883, on the ground that she was not dependent upon the soldier for her support at the time of his death.

The evidence on file in the Pension Bureau gives rise to a serious doubt as to the correctness of this rejection. It appears that at the time of the soldier's death (1862) Simeon Kile, the father, was in the occupation of some rugged land in the wilds of Sullivan County, New York. It was stony, unproductive, and poor enough. He did not own it. He leased it. The Hon. H. R. Low, at present a senator of the State of New York, testifies that he was the owner of the land in question and leased it to Kile; that Kile could not and did not pay the rent, small as it was.

On this so-called farm he had a half dozen cows, a few sheep, and a team of horses. But even these were mortgaged to one Cyrus Gray, who testifies that the chattel mortgage was given in 1862, and after four annual renewals he was, in 1866, obliged to foreclose and sell out the property.

The evidence plainly shows that the son, before he went to the war, was in the habit of working for his parents on the farm, and when employed elsewhere he contributed to their support by bringing his earnings home. It also appears that he sent money to his parents whilst he was in the Army. The mother is now seventy-four years old, feeble, childish, and in very destitute circumstances.

Your committee is of opinion that she should be placed upon the pension-roll, and therefore recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1009.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3623.]

The Committee on Pensions, to whom was referred the bill (H. R. 3623) granting a pension to William H. Nevil, have carefully examined the same, and adopt the report of the House and report in favor of the passage of the bill.

The claimant was pensioned for gunshot wound of left side received in action at Hatcher's Run, and now claims an increase for myopia, alleged to be the result of a fever from which he suffered while in the Army.

The fact that this claimant was not near-sighted when he entered the Army first or when he again re-enlisted is abundantly proven, and also the fact of his being near-sighted now to a degree which interferes with his work as a house-painter, and caused his discharge by his employer.

The question to be solved is whether his myopia is the result of service in the Army or hereditary.

The records of the Surgeon-General's Office show that soldier was in hospital July 19, 1863, with remittent fever. He alleges that after the fever, which he had at Beaufort, S. C., he found his eyes were very weak. After he re-enlisted he was wounded, and after being in hospital on account of the wound, he found that his eyes were getting worse, and they have gradually been getting worse from that time to the present. His eyes were all right when he enlisted.

Dr. Thomas C. Walton testifies, as a neighbor, that he knew him to be sound and to have good eyes before enlistment, and that he knows his eyes have been unsound since his return from the war—cannot see farther than six or eight inches from his eyes.

Capt. C. W. Warwick testifies that claimant worked for him at house-painting before he enlisted; that he did not observe that his eyesight was impaired at that time. After discharge claimant commenced to work for affiant again, and that every year his eyesight got worse, and that four years ago he told him that he could employ him no longer on account of his eyes. This witness also testifies that Dr. George Jackson, now dead, who treated claimant in 1863, when he came from the Army, told affiant that the cause of claimant's losing his sight was exposure while in the Army.

Comrade Samuel Sebring testifies that—

"In March, 1884, he noticed that claimant was near-sighted; that at that time affiant was relieving claimant at guard duty, and learned that at a distance of a hundred yards claimant could not tell in daytime a bush from a man; that after that affiant has had occasion to notice his near-sightedness; that since discharge he has seen him but seldom; that he has always worn glasses since his discharge."

Charles W. Warwick, captain Company C, One hundred and seventy-sixth Regiment Pennsylvania Volunteers, again testifies "that claimant contracted disease of eyes from exposure and fever at Beaufort, S. C., in March, 1863, and that at present his eyesight is so bad that he cannot follow his trade (house-painting)." Again same witness states "before claimant enlisted he was an apprentice of his; at that time his eyesight was good; that during the war at Beaufort, S. C., some time in June, he thinks, he, affiant, noticed that claimant's eyesight had failed; claimant did not

know him until he walked close up to him. After discharge claimant continued his apprenticeship with affiant, but had to give up painting on account of short-sightedness."

Comrade John Funk testifies "that claimant's eyes were diseased after enlistment, which was about September 5, 1864; that he saw him often before he was wounded, and that he always moved like a near-sighted man. When he saw him after discharge, he wore glasses; that he does not recognize affiant unless he speaks first to him."

J. F. Raub, M. D., examining surgeon, testifies:.

"Claimant's eyes are somewhat injected, considerable irritation of conjunctiva, pupils unnaturally dilated and flattened, axis of vision uneven to the extent that he must use special glasses to approximate them; with naked eyes can distinguish letters an inch and a half long at 3 feet distance and ordinary print at 6 inches from eyes; reads with glasses at ordinary distance, but on account of improper approximation, looking at object for any length of time produces severe pains in the eyeballs. This disability should entitle him to three-fourths pension. These disabilities are permanent and the latter increasing."

Henry Robert and G. S. Boyd, examining surgeons, testify in this case:

"(1) Ball entered left side over anterior superior spinous process of ilium, passed back through abdominal wall, and out through transverse process of last lumbar vertebra. Now, muscles of walls and facia of back much contracted and weakened in region of the wound; the scars are deep and destruction of tissues considerable. The resulting disability is now fairly rated at $\frac{3}{4}$ degrees.

"(2) We find both eyes myopic, and in equal degree. He wears strong near-sighted spectacles. We are unable to find any other difficulty with them, and presume the defect congenital. We find no results of 'remittent fever.' Liver, spleen, and all vital organs are normal."

It thus appears (1) that there was no defect in this claimant's vision prior to enlistment; (2) that this dimness of vision occurred after an attack of fever in the Army; (3) that the myopia has continued to increase ever since its inception; (4) that his vision is now so much impaired as to prevent his making a living at his trade, that of a house-painter.

From these considerations your committee regard this soldier's claim favorably, and recommend that the bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1010.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5931.]

The Committee on Pensions, to whom was referred the bill (H. R. 5931) granting a pension to Erdmuthe Kirchner, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

Carl Kirchner was enlisted in Company G, Twenty-fourth Regiment Illinois Volunteers. He was mortally wounded at Chaplin Hills, Kentucky, October 8, 1862, and died of his wounds two days afterwards.

The claim of his mother, Erdmuthe Kirchner, was rejected by the Pension Office on the ground that it does not appear that she was dependent on her son for support at the time of his death.

The facts bearing on this point appear to be as follows:

Claimant had a husband, who, at the time of Carl Kirchner's enlistment, was a wood-turner, following this business in a small wooden building in the rear of his residence in Chicago. The son, Carl, appears to have been the main-stay of the business, and from the time of his enlistment the business appears to have gradually fallen off. Claimant's husband, shortly before the Chicago fire of 1871, mortgaged his premises for about $2,500. This money he appears to have lost before or during the fire. The property was afterwards quit-claimed to the mortgagee in satisfaction of the debt, leaving claimant's family practically destitute. Claimant's husband died in 1875. Since that time claimant has been absolutely without means and dependent on the charity of friends and relatives. She is over seventy years old and disabled by a hip disease.

It appears that during the short period of Carl Kirchner's service in the Army he was in the habit of sending home money to his mother.

As the son, Carl Kirchner, was the main-stay of his father's family before he enlisted, as the family gradually sunk into destitution from the time of Carl's enlistment till the death of his father in 1875, and as since that time claimant has been entirely dependent on friends and relatives for her support, your committee believe that the bill ought to pass, and recommend accordingly.

ı CONGRESS, } SENATE. { REPORT
st Session. } { No. 1011.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

ɜAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1768.]

ıe Committee on Pensions, to whom was referred the bill (H. R. 1768) ting a pension to James Wolfe, have carefully examined the same, adopt the report of the House of Representatives, and report in r of the passage of the bill.

ıt claimant was mustered in the military service in the war of the rebellion 20, 1861, as a private in Company F, Second Pennsylvania Volunteers, and was arged July 26, 1861.

imant alleges in declaration for pension filed March 12, 1879, that while in line ty at Martinsburg, W. Va., in the month of July, 1861, he was on picket duty ras driven back over a fence by the enemy. In getting over the fence he fell uptured himself in the left groin.

claim for pension was rejected on the ground of his inability to furnish com- t testimony, showing the alleged injury was received in the service and in line ty.

imant states that the reason he cannot furnish testimony of officers or comrades ıt the only ones that knew anything about his case are dead. They were Capt. Rambs and Privates Jacob Tyler and Henry Wike, the only ones with him when ed.

umber of reliable witnesses testify to claimant's soundness prior to enlistment, he evidence on this point is abundant and conclusive.

nediately after claimant's discharge, in July or August, 1861, he was examined r. C. L. Wolfe, of Columbia, Pa., who testifies that at that time claimant was ed with inguinal or scrotal hernia, does not remember which, and he recom- ed him to get a truss or suspensory bandage.

P. B. Young, examining surgeon, of Crestline, Ohio, examined claimant in and pronounced him permanently disabled, and rated him one-half incapacitated e performance of manual labor.

ır committee is of opinion that the evidence clearly establishes claimant's prior iness, and warrants the conclusion that his disability is the result of his military ɔe.

ır committee recommend the passage of the bill

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1012.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6489.]

The Committee on Pensions, to whom was referred the bill (H. R. 6489) granting a pension to Mrs. Barbara Fuchs, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

The claimant filed her application for a pension as the dependent stepmother of John Fuchs, late private of Company H, Sixth Regiment Wisconsin Infantry Volunteers, and who was killed in action June 19, 1864, at Petersburg, Va. Soldier was never married. Claim was rejected on the ground that there is no title in claim, she not being the natural mother of soldier.

M. Feelder and Jacob Blum testify that they knew claimant as the stepmother of soldier; that soldier at the time of his father's (Sebastian Fuchs) marriage with said claimant was a child of about three years of age.

John G. Steiger and Phillip Eder testify that claimant's husband, at soldier's death, was feeble and unable to support her.

Michael Feelder and Jacob Blum further testify that claimant has not remarried since the death of soldier's father, April 5, 1867. He was a laboring man, sickly and unable to support his family. He used to mend shoes, and had no income from his real estate. Since his death claimant has supported herself by selling the real estate she owned. They owned some real estate in Fountain City, Wis., worth about $2,000, and she has sold the most of it to support herself. Soldier worked for his parents prior to his enlistment, and gave all his earnings to them, and did this for three years before his enlistment.

In soldier's letter to parents, bearing date February, 1864, at Camp Washburn, he sends for their support $60 out of his bounty of $75; he also sent them his certificate of muster, to enable them to draw the bounty given by the town, with instructions to use it for their support.

The applicant at the death of her husband (soldier's father) was left with four girls to support, the oldest being seventeen and the youngest two and one-half years of age. The soldier's letter written but a few months before his death, and his sending a large portion of his earnings to the support of his parents, strengthened with other testimony showing that prior to and at the time of his enlistment he felt it his duty to contribute to the support of his father's family, evidence the fact that had he lived he would have cared for her who cared for him in his infancy in her now poor and helpless condition.

Your committee therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1013.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2975.]

The Committee on Pensions, to whom was referred the bill (H. R. 2975) granting a pension to Eliza A. Weeks, have carefully examined the same, and adopt the report of the House of Representatives and report in favor of the passage of the bill.

David P. Weeks was a member of Captain Ashby's company, Second United States Dragoons, and was wounded at the battle of Macanopa, Fla., in June, 1836. The ball which wounded him struck near the base of the left thumb, passing the entire length of his arm, shattering the bone throughout, and entered his body near the armpit and is supposed to have lodged near the heart. The arm was amputated. He died suddenly of heart disease on the 4th day of May, 1885, aged seventy-four years; and there is ground to believe that the disease of which he died was induced by his wound.

Eliza A. Weeks, his widow, was married to him in 1838, and lived with him until his death. During his lifetime he drew a pension of $30 per month. The bill provides a pension of $12 per month for his widow, and your committee recommend its passage.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1014.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4143.]

The Committee on Pensions, to whom was referred the bill (H. R. 4143) granting a pension to Margaret Madden, have carefully examined the same and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

This bill was reported favorably in the first session of the Forty-eighth Congress, which report is hereto annexed, and after examination of the evidence this committee adopt it as their report, and recommend that the bill do pass.

"Christopher Madden was a private in Company B, Eighty-fourth Regiment New York Volunteers, and received a gunshot wound of the leg which shattered the bone. This fact, and his condition, were clearly proven, and he was granted a pension of $8 per month. He died on the 10th day of August, 1866, at Brooklyn, N. Y., and the certificate of the board of health alleges that he died of cholera.

"Soon after his death the widow, Margaret Madden, the petitioner, entered her claim for pension, but it was rejected on the ground that the cause of death, cholera, was not due to wounds he received in the service.

"Only one witness is brought forward to prove the contrary, that witness being the physician who attended the soldier from the time of his discharge from the Army till his death, and he swears positively that the wounds received were without question the cause of death. The following are the affidavits referred to:

"Dr. Charles T. Chase testifies—

"'That he is a practicing physician and surgeon, and resides in the city of Brooklyn, N. Y. That he was well acquainted with Christopher Madden, late a private in Company B of the Eighty-fourth Regiment of New York Volunteers, for the twenty-years next preceding his death, and was his family physician for many years. That he attended and treated him from the time he returned home after his discharge from the Army to the time of his death; that he was suffering from a gunshot wound in the left leg just below the knee-joint; the tibia bone was badly shattered and splintered, which resulted in necrosis of that bone; there was great suppuration and a constant discharge, and occasional discharge of pieces of dead bone up to the time of his death. His health and system were destroyed by long continued pain and the discharge from the wounded leg. He died in Brooklyn on the 10th day of August, 1866. His death resulted from a loss of vital power and a gradual breaking down the whole system, caused by the long continued suffering and pain, produced by th wound in his leg.'"

"In another affidavit made by the same physician, in addition to the statement substantially as the foregoing, he says:

"'There can be no doubt as to the death of deceased having been hastened by constant and continued discharge of matter and pieces of bone from the leg, the tendency of which was to undermine the constitution and waste the vital powers of life.'"

"Again, the same affiant says:

"'That the death resulted from "necrosis of bones of leg," caused by gunshot wound received during the late war, and not from cholera or any other cause than that above stated, and that it is impossible for him, deponent, to understand how the in-

formation could have been given to the board of health that death was the result of cholera. The mistake might possibly have originated from the fact that cholera was quite prevalent at the time of said Cristopher Madden's death.'"

"This physician is of reputable character, and has practiced for many years. He seems to be very positive as to his facts and conclusions. Evidently there was a mistake made as to the cause of Madden's death. The evidence of cholera coming so directly from an official source probably influenced the Pension Office adversely to the widow's claim. Your committee, however, think the attending physician, who had cared for the patient for years, ought to be the judge, and believe him competent o decide."

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1015.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5635.]

The Committee on Pensions, to whom was referred the bill (H. R. 5635) granting a pension to William J. Heady, have examined the same, and report:

That an examination of the proofs in this case has satisfied the Committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

That William J. Heady, of Kentucky, was a captain in the Army of the United States during the war with Mexico. That just previous to the battle of Buena Vista he was sent with a small detachment on a dangerous reconnaissance, and was captured and carried to the City of Mexico, and kept a prisoner until that city was captured by General Scott.

He was a brave, prompt, intelligent, and efficient officer. He is now very old, poor, and in very bad health, in some measure resulting from hard usage as a prisoner, being now wholly unable to do any kind of work, and has been an inmate of a public hospital.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1016.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5283.]

The Committee on Pensions, to whom was referred the bill (H. R. 5283) granting a pension to Larkin G. Mead, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

Larkin G. Mead was appointed by Governor Randall, of Wisconsin, as assistant surgeon of the Eighteenth Wisconsin, in December, 1861; was severely ruptured at the battle of Pittsburg Landing, and at Corinth was prostrated with rheumatism and fistula. Dr. William Stevens, of Boston, certifies that "he has a large inguinal hernia on the right side, which is apparently irreducible. I also find evidence in the stiffened and enlarged joints of his toes and fingers that he has suffered from chronic articular rheumatism." G. L. Park, who was adjutant of the Eighteenth Wisconsin, states that the contract under which Mead acted as surgeon of that regiment was not in formal compliance with law, but that General Grant, upon a personal interview with Park, approved it. This legal informality prevents Dr. Mead from obtaining the benefit of the general law.

George M. Miller testifies as follows:

"That he was well acquainted with said Mead before the civil war of 1861, and that said Mead was of good and sound health; that since the return home of said Mead from service in the civil war he has known Mead well, and that since his return he has not only been wholly unfit for manual labor and self-support, but has been frequently confined to the house; that he is at all times, and has been since his return from service in the war, a sufferer with rupture, fistula, and rheumatism, and that he is supported by the charity of his friends."

Adjutant Park's affidavit is as follows:

STATE OF WISCONSIN,
County of Wood, ss:

Gilbert L. Park, being first duly sworn, upon oath says:

I reside at Stevens Point, Portage County, State of Wisconsin, and am over fifty years of age, and am the identical Gilbert L. Park who was adjutant of the Eighteenth Regiment of Wisconsin Volunteer Infantry in the war of 1861; that I knew personally Larkin G. Mead, formerly of Madison, Wis., and who was by the governor of Wisconsin appointed an assistant surgeon for said regiment; that soon after the battle of Shiloh I was taken sick and sent to hospital at Saint Louis, Mo., and remained there until I rejoined the regiment at Corinth in the last of July or first of August, 1862. That at my return to camp near Corinth I found said Mead sick, utterly helpless, incapable of walking or attending to any business whatever, and in the camp of said regiment at Corinth. Also, that he had been engaged in attending as a physician and surgeon to the sick and wounded of the Eighteenth Regiment Wisconsin Volunteer Infantry under a written contract, but which contract, from some informality in its execution or omission of some approval, was [not] legally made or absolutely binding. There was then due Mr. Mead on the contract several hundred dollars. I took this

contract and went to General Grant's headquarters and obtained from General U. S. Grant an order indorsed on the contract and signed by him, ordering the money due on the contract to be paid to Mead. This order, I think, was directed to Major Reynolds, a United States paymaster. With this contract and order I received a sum of money, which I paid over to Dr. L. G. Mead the same day. I do not now recollect what that sum amounted to, nor whether it was in full satisfaction of Dr. Mead's services or not. Nor do I now remember what amount was due him. This money was paid alone by virtue of General Grant's order, and the application for the order and the making of it by General Grant was solely because of Dr. Mead's health, as a necessity to save his life by sending him North. I had, and still have, a faint impression that the amount paid was $345 and some cents, but do not recollect it as a fact; nor can I from memory tell what sum was paid. Dr. Mead's services under the contract were commended by nearly if not every commissioned [officer] in the Eighteenth Wisconsin Volunteer Infantry, in writing, signed by the officers and attached to the contract, as services skillfully, satisfactorily, and faithfully rendered. This was done at Corinth, Miss., on or about the 1st of August, 1862.

G. L. PARK.

STATE OF WISCONSIN,
County of Wood:

Before me, the undersigned, clerk of the circuit court for the county of Wood, on the 9th day of May, 1882, came G. L. Park, to me well known to be the identical person named, and who signed the above affidavit and made oath before me that the same is true. In witness whereof I have hereunto set my hand and affixed the seal of said court this 9th day of May, 1882.

[SEAL.] R. P. BRONSON,
Clerk of the Circuit Court in and for Wood County, Wisconsin.

In view of his well-attested services on the battle-field, his injuries resulting therefrom, and his present crippled condition, your committee are of opinion that he deserves the pension he asks. They therefore report back the bill, and recommend its passage.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1017.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 576.]

The Committee on Pensions, to whom was referred the bill (H. R. 576) for the relief of Louisa C. Beezeley, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The claimant is the widow of Nathaniel Beezeley, late farrier of Company B, Second Indiana Cavalry, who died June 20, 1875, of disease of liver and bladder. Her claim has been rejected by the Pension Office on the ground that, in the opinion of the medical officers of that Bureau, the fatal disease originated after discharge.

The records of the War Department show that Beezeley enlisted in the above-named organization September 20, 1861; served until March 25, 1862, when sent to hospital at Franklin, Tenn., and was discharged at Nashville, Tenn., July 17, 1862, upon surgeon's certificate of disability, setting forth "old age" as cause for discharge.

There is ample and conclusive proof, both medical and lay, as to the soldier's soundness at time of his enlistment. The records of the War Department furnish no information whatever as to the nature of the disease for which the soldier was treated from March 25, 1862, until discharge. Comrades John C. Goe and Wilferd H. Miner testify that Beezeley's duties as farrier were of a very laborious character, exposing him much to the inclement winter weather day and night, and in consequence of same became sick and was sent to the hospital.

Dr. William H. Wishard testifies that he was consulted by the soldier shortly after discharge. Was then much broken down in health, a wreck of his former self, but cannot now recall the exact character of his disability.

Dr. R. N. Todd testifies that he prescribed for the soldier after his discharge from the service, but having no memoranda of the treatment cannot make any definite statement as to dates or nature of disease.

Alfred C. Woods and W. A. Woods testify that soldier upon his return from service and continuously thereafter suffered from what the physicians called "gastralgia."

Dr. J. H. Ledlie states that he was acquainted with the soldier during the last six years of his life. Suffered from chronic cystitis and disease of liver, producing dropsy. Attended him in his last illness and knows that he died of ascites, the result of organic disease of liver.

The claimant is over seventy years of age, and without any income whatever; is dependent upon the charity of friends for support. Her witnesses are persons of the highest integrity, while her own worth is certified to by the governor of the State of Indiana, ex-Senator McDonald, and other prominent men of that State.

Your committee are fully of opinion that the evidence clearly shows that the soldier, although advanced in years, was in every respect physically able to perform his duties; that by reason of exposure in the service his health became impaired; and that from date of his discharge until his death he was a constant sufferer from a complication of diseases reasonably chargeable to his military service, which finally caused his death.

Your committee therefore report favorably on the bill and ask that it do pass.

The bill is herewith reported to the Senate with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1018.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6801.]

The Committee on Pensions, to whom was referred the bill (H. R. 6801) granting a pension to Elander M. Mooneyhan, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The evidence in this case establishes beyond question the following facts: Claimant's husband enlisted in Company I, Twenty-fourth Missouri Volunteers, August 11, 1861. On the 20th of August, 1861, he was elected first lieutenant of that company, and immediately took command, drilling them until October 10, 1861, when he was taken sick with typhoid fever, and died October 23, 1861. On the next day the company was regularly mustered into service. The widow's claim was rejected on the ground that the soldier had not been mustered into service. That he served two months and incurred the disease from which he died is clearly proven. The rule of this committee has been to rate pensions according to rank from time of muster under a commission. As this soldier at time of death held no commission, your committee recommend that the bill be passed.

The bill is herewith reported to the Senate with a recommendation that it do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1019.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. WHITTHORNE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 524.]

The Committee on Pensions, to whom was referred the bill (H. R. 524) granting a pension to Daniel H. Ross, having examined the same, beg leave to report as follows:

That a careful examination of the record of the case shows that the conclusion arrived at by the House committee in their report on same case was and is sustained by the proof. Your committee adopt the same in its recitals of the facts, &c.:

A bill for the relief of this claimant having been reported favorably by this committee and passed the House, Forty-eighth Congress, but failed of consideration in the Senate, your committee adopt the printed report of this committee, Forty-eighth Congress, as follows:

"That the claim in this case is based on disease of the eyes, resulting from cold contracted in the military service of the United States and in the line of duty.

"It is shown that the physical health of the soldier was good prior to and at date of enlistment.

"Captain Ruter, Patriot, Switzerland County, Indiana, testifies, August 7, 1880:

"That claimant was a member of his company, and while in line of duty on the Mississippi River, near Saint Louis, Mo.; March 20, 1862, from exposure contracted a heavy cold, which settled in his eyes, causing inflammation, which became chronic. Knows these facts from personal knowledge.'

"Dr. G. L. Spooner testifies, May 17, 1880, that he treated claimant in 1873 for amaurosis of the eye, which has been his trouble since 1865.

"Henry Mead and Aaron Z. Taylor testify, May 17, 1880, that they have been neighbors of claimant since 1867, during which time he has been suffering with partial blindness of the eye and continuous headache, and that he has been disabled by the same each year one half.

"Asa E. Siters, and J. T. Calvin, Goldsmith, Tipton County, Indiana, testify, May 29, 1882, that they have lived neighbors to claimant since he came home in 1865, and know that when he returned home he was badly injured by some eye disease, both eyes being affected from 1865 to 1878, and that he was wholly unable to work; he has been in same condition since 1881.

"Dr. Thomas C. Whaldrill, Goldsmith, Tipton County, Indiana, testifies, May 30, 1882:

"'That he was claimant's family physician in 1872, 1873, 1874, 1875, 1881, and 1882, and during those years he was troubled with his eyes, which is incurable, and he is unable to do manual labor one-half the time.'

"June 15, 1881, claimant was examined by the United States examining board of Vevay, Ind., who report:

"'Has double cataract. The left eye is most seriously affected. The lens of this eye is distinctly nebulous. The lens of the right eye is affected very slightly. Can distinguish near objects pretty well; cannot read well;' rated at $4.

"The records of the Adjutant-General show that Daniel H. Ross enlisted in the military service of the United States as a private in Company D, Eighteenth Regiment

Indiana Volunteers, August 16, 1861, and was mustered out at Benton Barracks, Mo., January 3, 1863, to enlist in the Mississippi Marine Brigade. December 31, 1864, he was mustered out with the company at Vicksburg, Miss., by reason of his services being no longer required. January 26, 1865, he enlisted in Company E, One hundred and eighty-ninth Ohio Volunteers, and was honorably discharged September 28, 1865.

"The records of the Surgeon-General's office show the treatment of claimant in hospital for diarrhea, and it is on this record that he is unable to complete his claim in the Pension Office, as he has been unable to find the surgeon or any of the officers of the steamer Diana, where he was on detached service at the time of being treated. And that he has been unable to find the surgeon or any commissioned officer of Company B of the Mississippi Marine Brigade, of which he was a member at the time of the incurrence of his said disability.

"The examiner in charge of claimant's case in the Pension Office says, September 25, 1882:

"'I have searched in the records of office, &c., of the Mississippi Marine Brigade. Cannot obtain addresses, &c.'

"That by reason of these facts he cannot complete his case in the Pension Office.

"Your committee are of the opinion that the claim of the soldier is clearly made out, and recommend that the bill pass."

And therefore do recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1020.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. WHITTHORNE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4632.]

The Committee on Pensions, to whom was referred the bill (H. R. 4632) granting a pension to William L. McCall, having examined the same, report:

That the testimony which was before the Commissioner of Pensions was carefully examined, and, being satisfied that the report of the House committee (No. 700), who also examined this claim, is sustained by the proof in the case, do adopt the said report, as herein set forth, as a part hereof, as follows:

Applicant's claim is based on an alleged rupture in lower part of abdomen, caused from hard riding while in the service of the United States and in the line of duty.

Claimant states under oath that he was ruptured on both sides in January, 1865, from hard riding at Sevierville, Tenn.; was in no prior service; was captured by a party of rebels at Sevierville, Tenn., in January, 1865, and after being beaten with guns in the hands of the enemy, he was placed on a very lean horse, without saddle or bridle, and ran some 20 miles before he was released by Union soldiers. Thinks above causes produced the double rupture, which is worse on left side.

H. M. Hooper, late sergeant Company D, Ninth Tennessee Cavalry, deposes that about the last month of 1864, while the company was at Pontooman Springs, Tenn., applicant first complained of rupture, and was excused from duty; he refused to enter a hospital, and was treated by regimental surgeon in camp and cared for by his friends for a period, length of which is not recollected; was then taken to a private house in Tennessee, where he remained for some time before he rejoined his company; seemed to suffer considerably during remainder of his service; that he was acquainted with applicant several years before his enlistment, and, to the best of his knowledge and belief, applicant was a sound man, free from disease, at enlistment.

William R. and Alfred M. Hooper, late privates of Company D, Ninth Tennessee Cavalry, testified substantially as above, and further, that they believe the rupture was caused by the applicant's falling into the hands of the rebels, who, it is said, placed him on a horse without saddle and ran him a distance of 20 miles before he was released, and that he complained of said rupture just after said release.

John H. and D. H. Matthews, comrades, late of Company D, Ninth Tennessee Cavalry, besides corroborating the foregoing witnesses, stated they often heard applicant begging to be excused from duty on account of rupture; that they knew claimant prior to and at the time of his enlistment, and that he was sound and healthy, and free from rupture.

John Slater and D. V. Moody corroborate the other witnesses.

This claim was rejected upon the ground of no record, no medical evidence prior or since service, and claimant's declared inability to furnish same, or that of a commissioned officer who saw the hernia in the service.

The only record shows that claimant was absent sick May and June, 1865.

There is no conflict of lay testimony that applicant was a sound man prior to and at the time of his enlistment, that he was captured while in the line of duty and in the service of the United States, and that he suffered from the hands of the enemy such

treatment as could have resulted in hernia as he alleged it did so result. There is, however, a wide difference in the medical testimony. E. D. S. Allen, examining surgeon, states:

"I do not find, on examination, any hernia existing in this case. There may have been a rupture, but no evidence of it is now seen."

Allen's report bears date 1880.

John A. Crisp, another examining surgeon, in report bearing date of April 19, 1882, stated:

"Applicant has rupture both sides of lower abdomen, which entitles him to one-half rating. His physical condition will not admit him to do any hard labor. I also find his eyes in a state of ulceration, with dimness of vision, the origin of which I cannot determine."

The finding of the latter examining surgeon being in harmony with the lay testimony, it is apparent that the former must have been mistaken.

As the preponderance of testimony is with the claimant, your committee, in view of all the facts, are of the opinion that claimant has a just and fair claim upon the Government for a pension, and recommend the passage of the bill.

And accordingly recommend the passage of said bill.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1021.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. WHITTHORNE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5100.]

The Committee on Pensions, to whom was referred the bill (H. R. 5100) granting a pension to Eleanor Foust, having examined the same, beg leave to report:

That the testimony which was before the Commissioner of Pensions was fully examined, and being satisfied that the report of the House committee (first session, Forty-ninth Congress No. 787), who also examined this claim, is sustained by the proof in the case, do adopt the said report as herein set forth as a part hereof:

James Foust enlisted as private in Company H, Thirteenth Regiment Tennessee Cavalry, September 24, 1863, and was honorably discharged on 5th day of September, 1875, and died December 4, 1875.

Eleanor Foust, his widow, filed claim for pension March 25, 1880, which was rejected on the ground that disabilities of which the soldier died were not incurred while in line of duty.

The proof shows that claimant's husband was sound and free from disease at time of enlistment, and that he was at time of discharge afflicted with disease of leg and thigh from which he afterwards died.

The only question which the Pension Office could make on this case is that of the incurrence of the fatal disabilities in line of duty. On this point the proof shows that the first symptoms of the disease were obvious when the soldier returned to his command from a trip home on furlough, and that he attributed the disease at that time to overexertion in attempting to evade capture by a band of Confederate soldiers which he encountered while returning to his command.

The disease appears from the medical testimony to have been physical prostration from profuse and protracted suppuration of the deep-seated structures of the thigh, apparently resulting from extensive periostitis, which his attending physicians during his last illness agree was the cause of his death, and that such disease would naturally result from overexertion.

The soldier served fifteen months after the first development of disease, and engaged in active service and battles until said disease developed to such an extent as to render him unable to perform hard service. He returned from the Army a physical wreck, and was never able to perform any kind of manual labor thereafter.

Soldier and this claimant were married to each other March 9, 1854.

Your committee recommend the passage of the bill.

And accordingly recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1022.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. WHITTHORNE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5692.]

The Committee on Pensions, to whom was referred the bill (H. R. 5692) for the relief of James B. Russell, having examined the same, beg leave to report:

That the testimony which was before the Commissioner of Pensions was fully examined, and being satisfied that the report of the House committee (No. 880), who also examined this claim, is sustained by the proof in the case, your committee adopt the said report as herein set forth as a part of this report:

We find that claimant was first lieutenant of Company H, Second Tennessee Cavalry, enlisting October 10, 1861, and resigned March 9, 1863; that in 1871 he filed an application for a pension, alleging weak eyes and weakness of breast. This application was rejected on the ground that he could not prove the disability to be due to the service. The certificate of disability given by the surgeon of the regiment February 26, 1863, reads:

"I have carefully examined J. B. Russell, first lieutenant of Company H, Second Tennessee Cavalry, and find that he is suffering from chronic bronchitis and disentery. He has been unable for duty for over a month; his constitution is so impaired and broken down, and being now in his forty-ninth year, I am of opinion that he will not again be fit for public service."

James Baker, Elizabeth Baker, and Lieut. S. D. Best testify to claimant's soundness at enlistment. The latter testifies that Lieutenant Russell was obliged to leave the service on account of his eyes. R. Long and J. Bearont testify as to origin in service and treatment by the regimental surgeon.

Dr. A. L. Canich, regimental surgeon, testifies to treating claimant for sore eyes in February, 1863. Capt. S. P. Rowan testifies to claimant's discharge for disability of eyes and back. Several witnesses, including two physicians, testify as to existence of disability at discharge and continuance since. The examining surgeon at Newtonia, Mo., reports in 1871 that he is blind in right eye, the vision of left eye is dim, and suffering from chronic bronchitis. The examining surgeon, Pineville, in 1874, reports the eyes the same as the other surgeon, but finds no bronchitis. The same surgeon, in 1882, reports his eyes the same, and says he is very much emaciated, weighing only 112 pounds.

The evidence shows him to have been intensely loyal to the Government and very active in its support.

He is now seventy-two years of age, poor, and unable to do anything for his support.

Your committee recommend the passage of the bill.

And accordingly recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1023.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6519.]

The Committee on Pensions, to whom was referred the bill (H. R. 6519) granting a pension to John D. Krehbiel, have examined the same, and report:

Your committee have examined the facts in this case, and adopt the report of the House Committee on Invalid Pensions (House Report No. 1283), and recommend the passage of the bill.

Claimant enlisted June 6, 1861, and was discharged February 12, 1862; his declaration was filed November 21, 1882, and his claim was rejected on the ground that no disability from cause alleged since November 21, 1882. He claims pension, "that while in line of duty in Virginia on or about the winter of 1861 and 1862, he contracted chronic diarrhea and dysentery."

The examination of A. B. Judson, examining surgeon, made December 20, 1882, reveals the following facts:

"Complexion clear; pulse, skin, and eyes normal; abdomen tumid; tongue slightly coated; general condition appears good; claims about twenty attacks a year of diarrhea, stools varying from four to seven daily, thin, painful, varying in quantity, sometimes bloody and attended with cramps; claims nervousness, which is increasing and attributed by him to the weakness caused by the diarrhea.

"Appears to be a credible witness, but in the absence of physical evidence of more marked character we are unable to rate.

"From the condition and history of the claimant it is our opinion the disability was incurred in the service as claimed, and that it is not aggravated or protracted by vicious habits. We find the disability as above described to entitle him to a rating."

Said examining board further certify:

"That they have carefully examined this applicant, who claims that while in the service of the United States at or near Georgetown, Va., and while in the line of duty in 1861 he incurred chronic diarrhea and dysentery, and that in consequence thereof he is disabled from earning his subsistence by manual labor."

November 2, 1883, Assistant Adjutant-General M. Barton certifies that—

"Capt. John D. Krehbiel, of Camp Rest De Kalb, New York State Volunteers, has contracted dysentery on the 2d of October, 1861, while on out-post duty, which, notwithstanding proper attention, became chronic; and that in consequence thereof I delivered to him on the 11th day of November, 1861, a certificate on which to found an application for leave of absence, which was granted; and furthermore this is to certify that the above-named complaint resisted the most skillful treatment of the

physicians in New York, Professor Detmold and Dr. Ilyree, and that on the return of said Captain Krehbiel to the camp I find him on careful examination unfit for duty because of chronic diarrhea.

"JOHN G. HOLDER,
"*Brigade Surgeon, Div. Dir.*
"SAMUEL BRILLANOCOSKI, M. D.,
"*Surgeon Rest De Kalb, Forty-first New York Veteran Volunteers.*"

Your committee, from the above facts, believe that claimant contracted chronic diarrhea while in the service as a soldier, in the line of duty, disabling him from earning his subsistence by manual labor, and recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1024.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5058.]

The Committee on Pensions, to whom was referred the bill (H. R. 5058) granting a pension to John Arthur, have examined the same, and report:

Your committee have carefully examined the facts as set forth in the accompanying report of the House Committee on Invalid Pensions (House Report No. 1368), which they adopt, and recommend the passage of the bill.

Arthur alleges that in July, 1864, he was on duty as a guard to a wagon train *en route* from Maryland Heights to Hagerstown, Md., and while on this march he got permission to stop at a spring for water. Before he got his canteen filled, the balance of his command got some distance ahead. The road was full of wagons, and anxious to overtake his comrades, he marched as rapidly as possible on the side of the road, over logs, brush, and rocks, having on all the equipments of a soldier, and while thus marching he felt a severe pain in the left side of abdomen. Upon reaching the command, he was unable to march any farther and was placed in one of the wagons. Was examined by a surgeon upon arrival at Sandy Hook, Md., who pronounced the injury a rupture, after which he was sent to hospital.

The record of the War Department shows that Arthur enlisted in Company K, One hundred and sixtieth Ohio Volunteers (one hundred days' men), May 2, 1864; was admitted to Sandy Hook, Md., hospital July 25, 1864, with constipation; transferred to general hospital at Annapolis August 7, 1864, with debility, and mustered out with company September 7, 1864.

Thomas J. Collier, James Smith, and Ira Conner, neighbors and fellow-workmen before enlistment, testify to claimant's freedom from hernia at time of his entry in the service.

George McDonough, late captain of claimant's company, testifies that the latter was a sound man at time of enlistment; knows this from the fact that he was soldier's family physician for eight years before the service; that in July, 1864, while on the march from Maryland Heights to Hagerstown, Md.; soldier got permission to leave the ranks for the purpose of getting water. Upon rejoining the command he was much exhausted and obliged to retire from duty, and shortly afterwards was sent to the hospital at Sandy Hook, Md.; saw claimant in a very few days after his admission to the hospital, and found him suffering from inguinal hernia. Claimant has been disabled by reason of said injury ever since discharge.

Comrade Ira Connor testifies that he assisted the claimant into a wagon near Sandy Hook, Md., in July or August, 1864, while on a march from Maryland Heights to Hagerstown, Md.

There is also other evidence showing continuous disability from hernia ever since discharge.

The examining surgeon reports that claimant has inguinal hernia of left side; has tried trusses, but they have failed to retain it.

The evidence filed is not deemed sufficient by the Pension Office to warrant favorable consideration of the claim, and claimant is unable to furnish anything additional.

Your committee, however, are of opinion that the proof of origin of the disability in service and line of duty is sufficient, and that claimant is entitled to the relief asked for, and therefore report favorably on the bill, and ask that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1025.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6648.]

The Committee on Pensions, to whom was referred the bill (H. R. 6648) for the relief of Edward M. Harrington, have examined the same, and report:

Your committee concur in the accompanying report (House Report No. 1271) and recommend the passage of the bill with an amendment: Strike out the word "Jersey," in the seventh line, and insert the word "York."

That Edward M. Harrington enlisted in Company C, Ninth New York Cavalry, December 31, 1863, and was discharged therefrom June 13, 1864, for the following reason, as stated in his certificate of disability for discharge:

"Epilepsy produced while in the service of the United States by blows of violence over the right hypochondrium, producing a deformity of sternum; disability three-fourths; not fit for Invalid Corps.

"H. McG. WILSON,
"*Assistant Surgeon.*"

Dr. H. H. Glidden, of Jamestown, N. Y., testifies:

"I was surgeon of the board of enrollment at Dunkirk, N. Y., at the time the claimant enlisted; he was then a sound, healthy, and able-bodied man. About January 9, 1864, while at the barracks at Dunkirk, N. Y., and in the line of his duty, the claimant was attacked by one Patrick Burnes, and thrown to the floor, stamped upon, kicked, and beaten very severely, having his collar bone and several of his ribs broken. Burnes at the time was a member of the regiment; the assault was made wholly without provocation on the part of the claimant and for the purpose of robbery."

W. F. Tinke, of Coalville, Iowa, testifies:

"About the month of June or July, 1864, while I was living at Frewsburg, N. Y., claimant came home from the service, sick from injuries received at Dunkirk, N. Y., and did no work of any kind. I do not personally know how he received his injuries. I saw him when he came home and he was treated by Dr. O. C. Gibbs, now deceased."

Dr. J. W. Porter, of Ponca, Nebr., testifies:

"I have been practicing eighteen years; have known the claimant since 1865. During all this time he has suffered from an injury to the right side and fits, which attack him about once in two weeks and interfere with his ability to do manual labor more than one-third of the time; his mind has also been greatly impaired, preventing him from engaging in business."

Upon such testimony, corroborated by additional evidence, application was made for pension June 3, 1879, but was rejected on the ground that claimant did not receive disability in line of duty.

It is clearly proven that the soldier was injured while in the service, without fault on his part, and, with no proof to the contrary, it is a fair presumption that he was in the line of his duty.

Your committee are of opinion that his claim to a pension is well established, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1026.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7108.]

The Committee on Pensions, to whom was referred the bill (H. R. 7108) granting a pension to Andrew J. Wilson, have examined the same, and report:

The facts of this case are very fully stated in the accompanying report of the House committee (House Report No. 1528), which your committee adopt, and recommend the passage of the bill.

That it appears by the papers on file in the Pension Department that Andrew J. Wilson, the claimant, was drafted into the military service of the United States, and was enrolled as a private in Company F, Ninety-sixth Regiment New York Volunteers, February 27, 1865, and was discharged from the service September 21, 1865; that the regimental surgeon, in his certificate, states that he finds "him incapable of performing the duties of a soldier because of chronic nephritis and deafness. The soldier was drafted for one year, and was afflicted with these difficulties before his entry into the service. He has great difficulty in making water, together with pain in his back in the region of the kidneys. His general health is so much affected thereby that, together with his hearing, he is totally unfit for the duties of a soldier."

The claimant filed his claim for a pension February 6, 1882, and the same was rejected on the ground "that the rheumatism and disease of kidneys existed prior to enlistment, &c."

The following is a statement of the evidence as to claimant's condition at the time he was drafted into the service at Rochester, N. Y.:

George W. Bidell testifies that when claimant was drafted and examined by Dr. Backus, the examining surgeon, the affiant was deputy provost-marshal, and was in attendance when claimant was examined; that claimant made claim to exemption on the ground of deafness and defect in his eyesight; that said Dr. Backus made an apparently thorough examination, and said his deafness and defect of eyes were not sufficient to exempt him, and stated, "He is sound as a nut; he will make a good soldier"; and the claimant was held in the draft. The affiant further states that he had known claimant for several years before being drafted, and that he never knew or heard of his having the rheumatism or kidney difficulty.

Seth S. Spencer testifies that he was present when the claimant was examined by Dr. Backus, as above stated, affiant being one of the committee appointed by the board of supervisors of Orleans County, where claimant then resided, to see to procuring volunteers and filling up the quota of said county; that said Wilson was drafted into the military service in February or March, 1865; that he helped prepare the papers of the claimant in making his claim for exemption, which papers were presented to said Dr. Backus; that thereupon said doctor examined the claimant, and stated, in substance, that he would make a good soldier, and accepted him.

The affiant further states that he was well acquainted with claimant at time he was drafted, and that he supposed and believed he was sound and well, with the exception of his hearing and eyesight.

Henry Boring testified that he had known the claimant for over thirty years; that they were both masons and plasterers, and had frequently worked together at their trade before claimant was drafted; that claimant was accustomed to many kinds of work pertaining to his trade, such as handling stone, plastering ceilings and walls, and sometimes lifting heavy hods of mortar, and that he never heard the claimant before he was drafted complain of lame back, disease of his kidneys, or rheumatism, or speak of his having any disease or ailment, except of eyes and ears; that the spring after claimant returned from the service he was unable to plaster overhead, and complained of his back, and that he could not lift heavy weights.

To the same effect is the testimony of George B. Smith, who had known claimant for thirty-two years.

H. W. Lewis, a physician of over thirty years' practice, whose character and standing as a physician are fully certified, testified that he had known claimant twenty-five years, and was his family physician from 1864 to 1874; that he knew the amount of labor claimant was able to perform and did perform, and that he regarded him a sound, healthy man at the time he entered the United States service, and that he never knew or heard that he had any disease of his kidneys.

The claimant in his sworn affidavit states most positively that up to his entrance into the service he had never been troubled with the rheumatism or kidney disease or any of the difficulties of which he complains. The only thing in the case which can be claimed to show to any extent the existence of any of these disabilities before the draft is the statement of the surgeon in his certificate for his discharge; and the surgeon in his certificate makes no statement showing that he had any personal knowledge or evidence of the fact so stated by him.

The claimant in his affidavit shows that by exposure in camp and on march, by sleeping on the ground night after night and getting wet through, he contracted a cold which resulted in rheumatism and an affection of his kidneys; that he also was sick with the diarrhea, and describes the manner in which, by a fall, going up a flight of stairs to the room where his company were quartered, which broke down, he was injured, which resulted in an injury to one of his testicles, and a rupture was produced.

Charles W. Vanchen testfies that he was a bunk mate with claimant, both being members of the same company; that about May 22, 1865, this claimant, from exposure and lying on the wet ground at Manchester, Va., and also at Huguenot Springs, was seized with inflammation in the back, and was obliged to go into the hospital at Warrenton, Va.; that he was present at the times above stated when claimant contracted his disease, until he was sent to the hospital.

Jacob P. Smith testifies that he was a member of the same company with the claimant; that claimant contracted rheumatism at Manchester, Va., from exposure and from lying on the ground, and diarrhea; and from like exposure at Culpeper, Va., he became very bad and went into hospital, and that affiant helped take care of him.

The reports from the office of the Adjutant-General show the claimant absent from his company, sick. No report from the Surgeon-General's Office found among the papers.

The condition of the claimant since and at the time of his discharge from the Army is fully shown by the affidavits of Drs. Lewis, Smith, and Cochran, showing him troubled with the rheumatism, affection of the kidneys, a rupture, and an injury to one of his testicles. Four examining surgeons, after examining him, pronounce him affected with rheumatism, &c., and rate his disability at twelve-eighteenths. Three other examining surgeons find no pensionable disability.

Dr. Campbell, medical referee in the Pension Department, states as follows:

"I am of the opinion that lumbago or rheumatism of the muscles of the back existed, if not fully described, when the soldier was discharged, and that he has the same disease still in a severe degree."

Mr. Van Mater, chief of board of review, states, September 19, 1885: "I do not see anything in the opinion of the medical referee to justify rejection."

The character of most of the witnesses sworn on the part of the claimant in this case is known to the members of this committee to whom this case was referred, and that they are gentlemen of high character and fully entitled to belief.

From a full and careful examination of the large amount of evidence in this case, the committee fully believe that this case is a meritorious one and should be granted; and they therefore recommend that the bill do pass.

O

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1027.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6639.]

The Committee on Pensions, to whom was referred the bill (H. R. 6639) granting a pension to Catherine Kennedy, have examined the same, and report:

Your committee have examined the facts of this case, and adopt the statement thereof in the report hereto annexed of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1200), and recommend the passage of the bill.

That Catherine Kennedy is the mother of John Moriarty, late of Company K, One hundred and fifty-eighth New York Volunteers; that soldier enlisted August 17, 1862, and was killed while on picket duty at Hatcher's Run, Va., March 31, 1865.

Father of soldier died in 1845, and mother remarried in 1847, to Thomas Kennedy, but he had his hip broken in 1850, from which he has been disabled since and unable to do a full day's work. In consequence, both Mrs. Kennedy and husband have had a constant strife to earn their support. Mother's claim for pension was rejected on the ground that she was not dependent on soldier for support.

Thomas Wieckless, auditor of Scott County, Iowa, March 28, 1881, testifies that Thomas Kennedy owns a house and lot in Davenport, Iowa, assessed at $115, which he purchased in 1876, and that he owns no other property.

Edward Russell, postmaster at Davenport, Iowa, on February 12, 1881, certifies that Mrs. Catherine Kennedy is quite poor; she was wholly dependent upon her son, John Moriarty, for support; her husband is sixty years of age and is in poor health.

Thomas Mahony testifies that he has known claimant for forty-nine years; that he knew her son, John Moriarty; that before he entered the service he worked in a brush factory and gave his earnings to his mother and his step-father until he enlisted; that he knew he sent them money from the Army.

The Second Auditor of the Treasury certifies that arrears of pay and bounty were paid to mother of the soldier.

It is also in proof that soldier was never married, and that although past his majority when he enlisted, yet he acknowledged his duty and desire to assist in the support of his mother by making contributions both before and after his entering the service. She has struggled along through the years without aid, but now she is old and in need, and is entitled to some relief from a Government to which in the hour of peril she gave the life of her first-born.

Your committee therefore recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1028.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4850.]

The Committee on Pensions, to whom was referred the bill (H. R. 4850) for the relief of William J. Hudson, have examined the same, and report:

Your committee have examined the facts in this case, and concur in the report of the House committee (House Report No. 1199), which we adopt, and recommend the passage of the bill.

That the claimant, William J. Hudson, was a private in Captain Bevens's, Company A, Mounted Arkansas Rangers, an independent volunteer organization, serving with and under the orders of the United States military forces in Arkansas during the late war. He claims that on the 10th day of August, 1864, while in a fight with rebels 10 miles from Fayetteville, Ark., he was disabled by a gunshot wound in his right arm near the elbow, from which he has never recovered.

Capt. John W. Wilkinson, of Company D, same organization, testifies that he was present, and was an eye-witness to the wounding of William J. Hudson, and that said wound rendered the arm useless.

J. M. Caldwell, of Huntsville, Ark., testifies that he was a member of Company D. First Arkansas Cavalry, and that he was present with his command on the 10th day of August, 1864, and that with other troops under command of Lieut. Col. A. W. Bishop, of the First Arkansas Cavalry, was engaged in battle with the rebels on Richland Creek, Arkansas, and saw said William J. Hudson wounded.

Allison Boyd, clerk of Madison County, Arkansas, testifies to same facts.

George W. Row makes a like affidavit.

Drs. Buren and Midlock in a joint affidavit, dated January 2, 1867, testify that they carefully examined William J. Hudson and found his wound to be a fracture of the right arm, having the appearance of a large-size ball entering the elbow on the inner side of the arm, destroying the muscles of the arm, contracting the fingers of the right hand, and rendering said right arm useless.

Hon. S. W. Peel, a member of this House, certifies to a personal acquaintance with claimant and all the witnesses, and to their high character and good reputation, and declares the case a meritorious one. Pension is refused at the Pension Office because claimant was not regularly mustered into the United States service; but he was serving in a command under the orders and direction of United States officers and was wounded in battle.

It has been the universal custom of Congress to grant relief in like cases. Therefore your committee recommend the passage of this bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1029.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6668.]

The Committee on Pensions, to whom was referred the bill (H. R. 6668) granting a pension to Lurena Wages, have examined the same, and report:

Your committee have examined the facts in this case, and concur in the report hereto annexed of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1861), and report back the bill, with a recommendation that it do pass.

The claimant was married to one James Jackson prior to 1845. They lived together a short time and separated. They both filed petitions for divorce from each other in the circuit court of Clay County, Kentucky, in the year 1845. Claimant at the time resided a considerable distance from the county seat, and did not attend the trial of the cause.

She testifies that a short time after the term of the court at which the suit for divorce was set for trial, the said James Jackson passed by her place of residence on his return from said term of court, and exhibited to her an instrument of writing, which he represented as being a bill of divorcement dissolving their said marriage, and that she in good faith believed that they were lawfully divorced from each other.

The said James Jackson testifies that he and claimant were by a decree of the proper court of Clay County, Kentucky, divorced from each other.

The said James Jackson was married to another woman in the same neighborhood where claimant lived, in the year 1845, and claimant was married to Jackson Wages, also of the same neighborhood, in the year 1848. The said Jackson Wages enlisted as a private in Company E, Seventh Regiment Kentucky Volunteers, on the 11th day of March, 1862; was discharged therefrom the 10th day of March, 1865, and died July 26, 1881, of chronic diarrhea, which he contracted while in the service aforesaid, and in the line of duty. Claimant filed application for pension January 25, 1882, which was rejected December 5, 1884, on the ground that claimant was not the lawful widow of the soldier, she having a husband living from whom she was not legally divorced at the time of her marriage to the soldier.

The clerk of the circuit court of Clay County, Kentucky, certifies to the existence of record in his office of the pleadings and papers in the suit for divorce as aforesaid, but does not find a judgment of divorce in said case of record, and gives it as his opinion that the allegations and grounds for divorce were amply sufficient to justify a decree dissolving the marriage contract, and attributes the absence of the record of the divorce to the carelessness of the officers of the court. The deposition of divers citizens of the neighborhood in which claimant and the soldier lived together as husband and wife for more than thirty years, shows that the fact of claimant's being divorced from her former husband was never questioned by any one to their knowledge until the question was raised by the Pension Office, which said witnesses are certified in the record as being of good character.

Your committee have been called upon by the citizens of Clay County, Kentucky, to consider in connection with this case a petition numerously signed by the leading

citizens and representative men of the locality in which claimant has resided for more than forty years, setting forth the good moral character of claimant and the universally-accepted belief of the legality of her marriage with the said soldier, and the fact of their living continuously together as husband and wife in good faith for more than thirty years. The character of these petitioners and their standing in society entitled them to the very highest consideration.

While your committee think that there may have been some legal impairment to claimant's marriage with said soldier, yet they do not for a moment believe that any legal barrier to the marriage was known to or suspected by either claimant or the said soldier. They therefore recommend the passage of the bill herewith reported.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1030.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7109.]

The Committee on Pensions, to whom was referred the bill (H. R. 7109) granting a pension to Joseph Tuttle, have examined the same, and report:

The accompanying report of the House Committee on Invalid Pensions (House Report No. 1529) fully states the grounds upon which this present application for a pension is based. Your committee adopt the same and recommend the passage of the bill.

That the claimant asked to be placed on the pension-roll as the dependent father of Charles Tuttle, late of Company F, Second Regiment Michigan Volunteers. The claimant made application for a pension, but the same was rejected because his dependence and the fact of son's contributing to his support were not sufficiently proven.

The following facts appear from the evidence on file in the Pension Office: That Charles Tuttle, the son, enlisted in the Second Michigan Volunteers May 25, 1861, and was killed in battle in the line of duty May 31, 1862; that at the time of his death he was about nineteen years of age. The evidence as to his son's contributing to the support of his father, the claimant, is found in the evidence of the claimant himself, but his character as to truthfulness is verified by the affidavit of Hon. E. K. Hart, a member of the Forty-seventh Congress.

The claimant states in his affidavit that when said Charles was about nine years of age, he, deponent, was poor, and had an uncle living in Ashtabula County, and that he took said Charles to live with his said uncle; that he made an arrangement by which said Charles went and lived with one Daniel Betts, the claimant returning to his home in Orleans County, New York; that said Charles lived with said Betts until the death of said Betts, when, as the claimant was informed and believes, said Charles went and lived with one Captain Hill, at Rome, Ashtabula County, Ohio, with whom he continued to live until his enlistment; that while Charles was living with Captain Hill, the father, the claimant, being poor and in great need of money, wrote his said son at Rome aforesaid, who kindly and affectionately answered his letter and sent him $5 to help supply his wants.

That some time in the spring of 1862 he received a letter from his said son, mailed at the city of Washington, inclosing him $25, as near as he could remember the amount, and informing him that he had enlisted into the United States service, but not informing him from what State or in what regiment he had enlisted.

It also appears from the evidence that the letters the claimant received from his son had become lost, so that the claimant could not produce them. It also appears that the claimant, when he first heard of his son's death, was informed that he had enlisted in Company E, Twenty-ninth Regiment Ohio Volunteers, and believing that information to be correct he so stated in his application for pension, but he afterwards learned his mistake, and that his son, in fact, enlisted in a Michigan regiment as above stated.

The claimant in his affidavit very satisfactorily explains how the mistake arose and the sources from which he derived his information, and very clearly shows that this

mistake was one that might naturally be made, and ought not to prejudice his claim.

The dependence of the father is very clearly shown. It appears that in 1861, when the son enlisted, the father was fifty-five years of age, and that he then had a double hernia, was poor, and unable to do full work or earn full wages.

Dr. Herbert Clark, a physician, whose character is certified to, states in his affidavit, made in January, 1885, that he treated the claimant in 1862 and 1863, and found him suffering from "general debility caused by indigestion, also from femoral hernia on each side, as well as from umbilical hernia, and that the disability continues to this date."

In an additional affidavit, made in April, 1885, the same physician states that he had known claimant for over thirty years:

"The deponent knows of his own personal knowledge that said Joseph Tuttle had such hernia in the year 1860, and deponent practiced and doctored him in said year 1860."

Rice Warner states in his affidavit that he had known the claimant about forty years:

"He has always been a very feeble man; could do but little work. I don't think his yearly income from all sources would exceed $50."

The affiant further states that he was appointed overseer of the poor about the year 1860, and held the office continuously seventeen years. He further says:

"During that time I helped Joseph Tuttle to fuel and provisions for his family at different times nearly or quite every year I was in office. The residue of his support he obtained from the charity of his neighbors. He had no property to my knowledge."

The fact that the claimant was before and at the time of his son's enlistment a poor man without property and in feeble health, and has since so remained, is clearly shown by his affidavit and those of his brother and sisters and neighbors.

The character and credibility of nearly every witness is fully certified to, and appears in the papers on file.

The one of the committee to whom this case was referred is personally well acquainted with claimant and has been for nearly thirty years, and fully indorses his truthfulness.

The committee think that this case is a meritorious one; that when a man of good character states positively that his son contributed to his support by sending to his father when informed of his needs money, and again sending while in the service, being a minor, money to his poor old father, his sworn evidence should be regarded as satisfactory, and that the son thereby fully acknowledged his filial obligations and within the meaning of the law contributed to his support; and that a man who at his son's death was fifty-five years of age, without property, poor in pocket and poor in health, with a triple hernia, unable to do a fully day's work, and needing and receiving from the overseer of the poor of the town where he lived, was a dependent father.

The committee therefore recommend that the bill do pass.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1031.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3860.]

The Committee on Pensions, to whom was referred the bill (H. R. 3860) granting a pension to John H. Walters, have examined the same, and report:

The main facts in this case are stated in the following report (House Report No. 1269), which your committee adopt as their own, and recommend the passage of the bill.

That John H. Walters enlisted in Company A, First Kentucky Cavalry, August 5, 1861, and was discharged January 10, 1865; he made application for pension November 3, 1882, alleging that while serving with his regiment near Somerset, Ky., in June 1863, he was afflicted with measles and diarrhea, which afterwards became chronic, and from which he has never recovered, but from the effects of the same he is now a helpless cripple. His claim was rejected by the Pension Office, for the reason that the records of the First Kentucky Cavalry report him as a deserter, and said charge of desertion still stands against him in the Adjutant-General's Office, United States Army.

This record is very satisfactorily explained by claimant, and his statement is corroborated by the records in the Adjutant-General's Office and by other testimony. He was sent home on sick leave by Colonel Woolford, of the First Kentucky Cavalry, in June, 1863, and while at home was so threatened and harassed by guerrillas that, although still an invalid, he started to return to his regiment, and failing to reach that he joined the Thirteenth Kentucky Cavalry, and served with said regiment until it was mustered out of the service in January, 1865, believing that he was doing his country faithful service, and as acceptable to the Government in this regiment as if in his own. Such cases were not uncommon in the border States; several have already come to the knowledge of your committee. That he is now a physical wreck, a helpless invalid, and a county charge, is proven by a joint statement of citizens, physicians, and county officers of Crawford County, Arkansas.

Hon. John H. Rogers, a member of this House, certifies to a personal acquaintance with claimant, and to the fact of his total and permanent disability.

In view of all the facts and circumstances surrounding this case, claimant's long service, his devotion to his country in her great peril, and his present suffering and distress, your committee believe he should be placed upon the pension-roll, and therefore recommend the passage of the bill after striking out section 2 and a corresponding amendment of title, which relates to a matter not within the jurisdiction of this committee.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1032.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5169.]

The Committee on Pensions, to whom was referred the bill (H. R. 5169) to increase the pension of Thomas J. Slayton, have examined the same, and report:

Your committee have examined the facts in this case, and concur in the statement of the same as set out in the following report (House Report No. 1533), which they adopt, and recommend the passage of the bill.

This soldier is now pensioned at $4 per month for injury to the back received while serving as a private in Company H, Thirteenth Vermont Regiment. The question at issue is whether present disease of eyes is a result of the injury to back. The Pension Office rejects his claim for increase upon the ground that it is not. The medical opinions in the case, bearing upon this point, are as follows:

Opinion of Medical Referee T. B. Hood:

"The cataracts are the result of senile degeneration of the *lens*, and have nothing to do with any injury received in the service."

E. J. Hall, examining surgeon, Morrisville, Vt., says, in report dated July 5, 1881:

"This man has a pair of cataracts; the right fully developed, the left partially. I see no connection with injury of spine."

The examining board at Montpelier, Vt., say in report, February 1, 1882:

"We think the loss of sight was hastened, if not produced, by the injury."

Burlington board, July 18, 1883:

"In our opinion the disease of eyes has no connection with injury of back."

Montpelier board, October 29, 1884, repeat their opinion of 1882, and rate him total second grade.

The claimant's condition is that of almost total helplessness. He is an old, white-headed man; is almost totally blind, and Dr. Hunt, his attendant physician, in an affidavit made in December, 1884, reports him confined to his bed most of the time.

Taking into consideration the claimant's established injury, his present disabled condition from some cause, and the medical disagreement as to connection between the two disabilities, the committee favor a reasonable increase in his pension.

We recommend that the bill be amended by striking out the word "thirty," in line 6, and inserting the word "fifteen," and that as so amended the bill do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1033.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4685.]

The Committee on Pensions, to whom was referred the bill (H. R. 4685) granting a pension to John A. Orendorff, have examined the same, and report:

Your committee have carefully examined the facts of this case, and concur in the report of the Committee on Invalid Pensions (House Report No. 1213), which they adopt as their own, and recommend the passage of the bill, with the following amendments: Strike out the letter "e" from the name in the title and in line 6 so it shall read, "Orndorff."

The claimant enlisted August 27, 1864, and was discharged June 2, 1865.

This soldier claims a pension for deafness resulting from a severe cold contracted in the Army and in the line of duty.

Aaron Richards testifies:

"Soldier was sound and hearty at enlistment; hearing was good and quick; that he (affiant) was a carpenter, and frequently worked with claimant, who was a mason."

Jacob King, neighbor, testifies—

"To soldier's being strong, healthy, and quick of hearing at the time of his enlistment."

James Lane, neighbor, says:

"Soldier had no difficulty with his hearing prior to his service; affiant worked with him."

Numerous other neighbors and acquaintances testify to the same effect. As to the incurrence of deafness in the Army, claimant adduces the following testimony:

Jacob E. King, late Army companion, testifies—

"That soldier while at Hancock Station, near Bermuda Hundred, while on the way to Petersburg, caught a cold; he then noticed his hearing was bad; that he was then relieved from duty."

James Lane, late Army companion, testifies:

"Soldier while near Petersburg took a cold, which resulted in impaired hearing that after that he was put on light duty."

J. N. Durboran testifies as to claimant's condition since service as follows:

"Claimant has suffered with deafness since his discharge, which has greatly interfered with his business; that since his return home he has had bad spells of neuralgia."

Dr. A. Noel states—

"That he served as assistant surgeon in Two hundred and fifth Regiment Pennsylvania Volunteers. He has been his family physician since 1863, and is familiar with his constitution and health. Before entering service claimant had a slight nervous deafness, but not to such a degree as to interfere with his trade."

After enlistment and in the Army the same affiant states:

"At time of enlistment claimant's difficulty of hearing was not sufficient to impair his usefulness, but that fatigue, loss of sleep, dampness and cold, and diarrhea, all

recognized as efficient causes of increasing and aggravating the claimant's disease, rapidly made his difficulty of hearing worse, until finally at date of his discharge it was seriously impaired, the left ear being the worse—loss of hearing being nearly total, whilst the right was nearly so."

From the evidence as above quoted, and from other testimony, there remains no doubt but that claimant's hearing at time of enlistment was at least so good that no deficiency was detected by any neighbor or fellow workman. His physician, however, states that he had slight nervous deafness, but not to any considerable extent. It is also in evidence by his comrades that cold and exposure produced the deafness in the Army to such extent that claimant was relieved from picket duty on that account; and that originating then and there, it has continued increasing by degrees until now he is almost totally deaf. Weighing carefully this mass of evidence, your committee are of the opinion that if the disease did not absolutely originate in the Army, yet his exposure there developed it to the present degree. They therefore recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1034.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4782.]

The Committee on Pensions, to whom was referred the bill (H. R. 4782) granting a pension to Elizabeth McKay, have examined the same, and report:

Your committee have examined the facts in this case and concur in the statement of them set out in the House report (House Report No. 1285) hereto annexed, which they adopt, and recommend the passage of the bill with an amendment, striking out the word "Rawley," in the fifth line, and insert the word "Rowley."

It appears from the evidence that the claimant was duly married to Rawley S. McKay on the 3d day of April, 1861; that the said Rawley S. McKay enlisted in the service of the United States in May, 1862, and was pilot of the United States gunboat or ram Switzerland, and that in the fall of 1862 he was transferred to Queen of the West, and then to the United States gunboat Black Hawk; that he continued in the service of the United States in the capacity of pilot until 1864; that in 1862, while he was pilot of the gunboat Switzerland, he contracted chronic diarrhea, from which he never recovered. It appears that there was no surgeon upon said boat, but that said McKay treated himself for said disease, and was given medicine for said disease by other persons on said boat.

Austin R. Smith and Carroll F. Redgood, who were first and second mates upon said ram Switzerland, testify that they were on said ram Switzerland with said Rawley McKay from the time he enlisted in May, 1862, until July of the same year; that he contracted chronic diarrhea while on said boat, and that for a long time he was disabled in consequence of said disease; that he never recovered from said disease; that they saw him frequently during the time he was in the service; that during all that time he never recovered; that they saw him frequently after he returned from the army, said witnesses living in Cincinnati, Ohio, and the said Rawley McKay living in Covington, Ky.; that they were with him frequently after his return from the army and up to the time of his death, and that he never recovered from the same. It appears from the evidence that said Rawley McKay treated himself for said disease; that at one time he had studied medicine, but was adverse to taking medicine from physicians, and during all of his sickness was not treated by any physician; that he was a great sufferer, and lingered with said disease until May, 1874, when he died from the effects of said disease.

Your committee are of the opinion that the widow of the said Rawley S. McKay, who has never remarried, is entitled to a pension; therefore recommend that said bill be amended as follows: Strike out all of said bill after the enacting clause, and insert the following: "The Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Elizabeth McKay, widow Rawley S. McKay, deceased, subject to the provisions and limitations of the pension laws."

And that said bill do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1035.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4808.]

The Committee on Pensions, to whom was referred the bill (H. R. 4808) granting a pension to William Field, have examined the same, and report:

Your committee concur in the statements of fact and the report of the House committee set out in the annexed report (House Report 1337), which they adopt as their own, and report back the accompanying bill with a recommendation that it do pass.

William Field enlisted July 30, 1862, as a private in Company A, Thirty-ninth Massachusetts Volunteers, and was discharged June 2, 1865. He filed an application for pension, alleging small-pox and fever and ague, and that he now has rheumatism, piles, hæmaturia, and enlarged prostate gland, the result of exposure and old age, being now eighty-six years old.

The records of the Surgeon-General's Office show that he entered second division First Army Corps Hospital, Peola Mills, Va., December 25, 1863, with typho-malarial fever; that he entered Stanton general hospital February 1, 1864, and Kalorama general hospital, Washington, D. C., March 17, 1864, with variola discreta; that he entered Stanton general hospital April 26, 1864, convalescent from variola, and was transferred May 10, 1864, to Satterlee general hospital, West Philadelphia, Pa. His claim was rejected on the ground that he has not been disabled in a pensionable degree by reason of diseases alleged since filing claim.

The old man's case seems not to have been well handled by whoever was his attorney, and at his great age probably the burden of evidence put upon him was beyond his power to obtain, because of his great infirmity and impairment of memory. Several petitions of citizens and members of the Grand Army of the Republic are filed with the case, from one of which your committee quote as follows:

"That he is now nearly ninety years of age, and is known as the oldest veteran serving in the war from Massachusetts; that he is very infirm, not only by reason of age, but is troubled with rheumatism and other kindred complaints, so much so that he is unable to perform any kind of manual labor."

This old man served in the Army three years, lacking two months; is now old, infirm, and poor; at best he can live but very few years; he is long past work and the enjoyments of life, which now is a burden to him. Your committee are of opinion, in view of the extraordinary circumstances in this case, and considering his long service in the Army, and his few remaining days, that it is clearly the duty of the Government to provide for the necessities of this aged and honorable veteran. They therefore recommend the passage of the accompaying bill as amended.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1036.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5408.]

The Committee on Pensions, to whom was referred the bill (H. R. 5408) granting a pension to Josiah Focht, have examined the same, and report:

The facts of this case are set forth in detail in the report of the House committee (House Report 1274) hereto annexed, which we adopt, and recommend the passage of the bill.

[House Report No. 1274, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5408) granting a pension to Josiah Focht, have examined the papers on file in the Pension Department, and make the following report:

The claimant alleges that while in the line of duty he contracted sickness, which became chronic. In a second declaration he states he contracted typhoid fever at Camp Tennallytown, near Washington, D. C., about March, 1862. That he had a relapse after the Seven Days' fight on the Peninsula, and suffered in his back and kidneys. And in a third declaration filed, he alleges he was taken sick with disease of kidneys by becoming overheated and drinking swamp water on a march from Peach Orchard to Malvern Hill, Virginia, in July, 1862.

Claimant enlisted June 7, 1861, as a private in Company D, Third Pennsylvania Reserve Volunteers, and was discharged on surgeon's certificate of disability November 14, 1862, "of chronic diarrhea, of four months' duration."

The claim was rejected December 6, 1883, on the ground that claimant has failed to prove the incurrence or existence of the alleged typhoid fever and resulting disease of kidneys and back in the service or at the time of his discharge or to otherwise connect his disability with the military service.

The records of the Adjutant-General's Office show claimant "present from enrollment to August 31, 1862, and October 31, 1862, absent, sick." He was discharged on surgeon's certificate of disability November 14, 1862.

William Briner testifies that he was captain of Company D, Third Pennsylvania Reserve Volunteers; that he was well acquainted with claimant, and that after the Seven Days' fight around Richmond, Va., claimant was taken sick at Harrison's Landing, Virginia, sent to hospital and discharged for disability in November, 1862.

George B. Davis testifies that he was second lieutenant of claimant's company; that while in the line of duty claimant contracted typhoid fever, terminating in chronic diarrhea.

Edmund W. Frill and Joseph D. Slichter, late privates of Company D, Third Pennsylvania Reserve Volunteers, in a joint affidavit, testify that they knew claimant, and while in the line of duty he contracted typhoid fever in the year 1862, and after treatment in hospital was discharged, having disease of back and kidneys resulting from typhoid fever.

S. B. Heckman, M. D., testifies that he has treated claimant for fourteen years; that he first treated him October 1, 1868; that he had pains in the back over the region

of the kidneys, and was feverish; in an affidavit filed August 3, 1882, says, on examination he "finds claimant's kidneys diseased, which also causes lumbago, and renders him unable to work for a living, causing so much suffering as to impair his mind to a certain extent."

W. C. Detweiler, M. D., testifies that he prescribed for claimant from about November, 1880, until March, 1881, for an affection of the kidneys, the symptoms being that of Bright's disease.

John Ege, M. D., testifies that he attended claimant daily for four weeks from July 8, 1882; found his back affected, and that he had Bright's disease of the kidneys, and that it is an incurable case.

Mary A. Bush testifies that she saw claimant shortly after he returned from the Army; that he looked sickly; had a bad color, and tottering walk, showing that he was weak and diseased.

Claimant testifies that the physician who treated him immediately after his discharge refuses to testify, and he is therefore unable to procure medical evidence at that time.

Dr. E. K. Schall, examining surgeon, states in his certificate: "The applicant contracted typhoid fever while in the service, but is now suffering with Bright's disease of the kidneys; he has severe pain in his back, with frequent discharges of urine; the specific gravity is 1012; tube casts are plainly to be seen under the microscope; he is losing flesh and is not able to perform manual labor more than half his time. This disease he no doubt contracted from exposure and typhoid fever. I would recommend three-fourths for Bright's disease."

There is abundance of evidence showing that claimant was sound at the time of his enlistment, and it is further shown that while in the service he had an attack of typhoid fever, which subsequently developed into disease of kidneys and back, and that claimant has been a constant sufferer therefrom ever since discharged.

Your committee are therefore of the opinion that the relief asked for should be granted, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1037.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6150.]

The Committee on Pensions, to whom was referred the bill (H. R. 6150) for the relief of Euphemia R. Smith, have examined the same, and report:

The facts of this case are briefly detailed in the accompanying report (House Report 1114), in which your committee concur, and report back the bill with a recommendation that it do pass.

We find that claimant is the widow of Garret Smith, who enlisted in Company A, One hundred and ninth Pennsylvania Volunteers, April 9, 1862, and was discharged April 24, 1865. He died January 23, 1879, of consumption, never having made application for a pension. The hospital records show that he was admitted to Second Division Hospital at Atlanta, September 26, 1864, with remittent fever, and was transferred, October 29, to No. 19 General Hospital, Nashville, with quotidian fever. He seems to have remained in hospital till April 1, 1865. Deborah Geron testifies that upon soldier's discharge from the Army he came immediately to her house in Belleville, and for several months she saw him every day, a part of the time he being a member of her family; that she was as well acquainted with his health as one person could be with another's; that he was in a very feeble and low condition of health, being very pale and weak, and troubled with a cough. It was plain to be seen that he had disease of the lungs; was familiar with the disease; had seen a great many cases of it. He was treated for that disease by Dr. Buckley, who has since died. William A. Esty testifies that he became acquainted with the soldier in the spring, 1866, at Kearney, Nebr., he having removed there for his health; that he lived a near neighbor to him, and saw and conversed with him often; that he was pale and emaciated, and complained of weakness of the lungs, and that it was plain to be seen that he had the consumption. He was a man of good habits and tried to take good care of his health.

George E. Wilson corroborates the above as to his condition from 1866 to 1870. J. A. Hough, postmaster at North Bend, Nebr., testifies to an intimate acquaintance with the soldier from 1870 until his death, that it was very evident that he had consumption. He was pale, emaciated, and had a cough and raised a great deal. Andrew M. Jackson, of same place, corroborates strongly the testimony of the last named witness. Dr. Luther J. Abbott, of same place, testifies to treating him for consumption from 1871 until his death; that the disease was well advanced when he commenced treating him. Dr. E. L. Cash, of same place, testifies that he died of consumption January 23, 1879.

The case seems to be as well proven as it could well be, except that the evidence of Dr. Buckley, who first treated him immediately after discharge, is lacking. The soldier served three years, entering as a private and being mustered out as a sergeant. The last six months of his service he was unfit for duty and the most of the time in the hospital. There can be no reasonable doubt that his disability was contracted in the service, continued to, and was the cause of, his death.

Your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1038.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2963.]

The Committee on Pensions, to whom was referred the bill (H. R. 2963) granting a pension to Louis Whorley, have examined the same, and report:

The evidence in this case is fully stated in the following report (House Report 1495), in which your committee concur, and recommend the passage of the bill.

[House Report No. 1495, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2963) granting a pension to Louis Whorley, respectfully report:

Louis Whorley enlisted August 26, 1861, and was discharged November 9, 1865.

Soldier alleges, in declaration filed March 23, 1882, that at Hagerstown, Md., October 1, 1862, he was sent from his company suffering with chronic diarrhea and swelling of the limbs and body, suffering pain in spine, brought on by exposure while in the discharge of his duty.

The Pension Office rejected this claim "on the ground that there is no disability from diarrhea or dropsy since March 23, 1882."

The regimental hospital records are not on file.

The assistant surgeon, U. S. Army, B. F. Pope, says:

"Louis Whorley, private, Company F, Fifth United States Artillery, was examined by medical board at Convalescent Camp, Alexandria, Va., March 26, 1863, and recommended for discharge on account of ascites of six months' standing, and that he was discharged from service at said camp April 3, 1863, by reason of ascites. Louis Whorley, unassigned, Third Pennsylvania Artillery, entered General Hospital, Fort Monroe, Va., January 25, 1865, from front with ascites, and returned to duty March 29, 1865 (Rives Hospital was sometimes known as McClellan Hospital); that he entered post hospital, Fort Monroe, Va., October 30, 1865, from quarters with intermittent fever, and returned to duty November 6, 1865. Records of Fort Monroe, Va., for 1865 furnish no further evidence in the case. Records of Fifth United States Artillery, March 1, 1863, to April 2, 1863, furnish no evidence in the case. No medical records of Third Pennsylvania Heavy Artillery on file, nor any records of Hagerstown, Md., between August 17, 1861, and July, 1863."

Dr. E. R. Scholl, examining surgeon, May 31, 1882, certifies:

"I have carefully examined Louis Whorley, who is an applicant for an invalid pension by reason of alleged disability resulting from disease of spine, result of dropsy. In my opinion he is one-half of total incapacitated for obtaining his subsistence by manual labor from the cause above stated. Judging from his present condition, and from the evidence before me, it is my belief that the said disability did certainly originate in the service aforesaid, in the line of duty, and the disability is permanent."

On Feburary 7, 1883, soldier was again before the examining surgeons, and the report of the board, consisting of Drs. Scholl, Cleaver, and Sterley, is as follows:

"There is no diarrhea at this examination, neither any swelling of the limbs. There

are no structural or physical evidences of spinal trouble, and no certain rational signs. Claimant alleges constant pain in lower portion of spine and sacral region, and gives history of original injury and disability therefrom. We find for chronic diarrhea, no rating; for swelling of limbs, no rating; for injury to spine, one-half of total rating. It is our opinion that disability was probably incurred in the service as claimed, and that it is not aggravated or protracted by vicious habits."

On May 21, 1884, the same board of examining surgeons report substantially the same as before submitted.

Claimant, in affidavit filed March 29, 1883, states "that he is unable to furnish either the testimony of officers or comrades as to origin in the service, or the testimony of a surgeon as to treatment for alleged injury of spine."

March 2, 1882, claimant again states "that two weeks after the battle of Antietam, September 17, 1862, at Hagerstown, Md., while on duty as a teamster, he heard, or thought he heard, the bugle call; that he sprang upon the off mule, while the other stood still, and said off mule threw him backwards upon the ground, causing him to strike the point of his spine upon a stone or the ground, he does not know which. From said fall he sustained injuries to spine; and he has been growing worse ever since, and not able to work half his time."

In service.—Henry L. Reider, Reading, Pa., testifies "that he was well acquainted with claimant in the United States service, and saw him in a hospital at Hagerstown, Md., wounded in the back from a fall, of which deponent did not know the particulars; that this was in the latter part of September, 1862."

Again, later, the same affiant testifies "that he was present in camp below Hagerstown, Md., when claimant fell from a wagon and had his back hurt."

Henry Rowe, or Rauch, Reading, Pa., testifies that on or about September 17, 1862, in going about camp below Hagerstown, Md., he found claimant lying down and hurt in the back; that on inquiry he ascertained that claimant had been thrown from a mule.

Again, later, same affiant testifies that he saw claimant fall from a wagon in camp below Hagerstown, Md., and that his back became swollen.

Since discharge.—Dr. J. S. Ammon testifies that he treated claimant for spinal affection in April, 1875, and that he saw him again in 1883, and his condition was worse.

Dr. F. H. Good testifies that he treated claimant since 1879 for enlargement of the lumbar vertebra of the spinal column.

A. M. Eisenberger testifies that he saw claimant in September, 1865, and he then complained of his back, and stooped in walking.

Your committee have quoted largely from the evidence on file. Whilst it is in some instances conflicting, and in many others contradictory, the tendency seems to be in one direction, and to indicate that this claimant received his injury as alleged, and that he is still greatly a sufferer from it. The disability becomes greater as the soldier grows older, a common result which does not seem to be generally recognized, but which this committee has daily occasion to observe. An injury which at the time of its incurrence was scarcely noticed by the comrades of the soldier, nor much complained of by himself, as time passes becomes aggravated to such a degree as totally to destroy his comfort, and to prohibit his earning a living.

Believing that this claim is well grounded, your committee report favorably, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1039.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5525.]

The Committee on Pensions, to whom was referred the bill (H. R. 5525) granting a pension to Robert E. Stephens, have examined the same, and report:

Your committee have examined the facts in this case, stated in the accompanying report (House Report No. 1016) in which they concur, and recommend the passage of the bill.

Robert E. Stephens was a member of Company K, Seventy-first Indiana Volunteers (afterwards Sixth Indiana Cavalry), and was mustered into service July 24, 1862, and discharged on May 25, 1865, on surgeon's certificate of disability for fracture of right radius and ulna, also loss of right index finger by amputation, received in the service and in the line of duty, and for which he is now receiving a pension for total third-grade disability.

In April, 1865, claimant filed his declaration for increase, alleging chronic diarrhea and mucous enteritis of the entire colon, and fecal accumulation of the colon, the results of sickness contracted in the line of duty. The records of the War Department disclose that claimant was in hospital at Lexington, Ky., from September 15 to September 29, 1863, for remittent fever, and from there was ordered to Convalescent Camp, Nelson, Ky., where he contracted chronic diarrhea, for which he was treated and from which he has never recovered. He further alleges he is broken down in health, and has been compelled to give up business by reason of his additional disability. The claim was rejected on the ground that the Pension Office could not grant the increased pension recommended by the board of examining surgeons by reason of the present law.

Claimant files, in support of his claim for increase, the affidavit of Dr. Lewis Shepard, a practicing physician of fifteen years' standing, as follows:

"That since April, 1875, I know that R. E. Stephens has been under medical treatment almost continually. I treated him and advised him to treat with others, who gave him treatment without much relief. His symptoms were distress of the stomach, pains in route of colon, bowels sometimes loose, sometimes constipated, and great nervous depression; also soreness, distention, and uneasiness of some parts of the bowels. Diagnosis, chronic enteritis. He is still suffering from these symptoms.

Dr. Clark Leavitt, a reputable physician of twenty-five years' standing, testifies—

"Was well acquainted with claimant since the war, and a close observer of his health, and treated him continually for fifteen years since 1865, and that his health was bad. He suffered from derangement of the liver and stomach. I treated his ailments time after time. These inconveniences and pains have been at times very severe, and there is little hope that he will recover from them."

Joseph B. Cheadele testifies—

"Was a member of Company K, Seventy-first Indiana Volunteers (afterwards Sixth Indiana Cavalry), and was intimately acquainted with claimant, and was his bunkmate. He further declares that on or about September 29, 1863, from exposure incident to the service and eating unwholesome food, claimant contracted chronic diarrhea;

that he continued to be afflicted at intervals with said disease until discharged, and since then to the present time; that he is now and has been for years a physical wreck, totally disabled from performing labor of any kind. He knew from his own personal knowledge claimant had to decline an excellent business offer more than a year ago on account of his physical afflictions. I was acquainted with him prior to the war, and knew him to be a physically sound healthy man."

The board of examining surgeons on May 2, 1885, report existence of disabilities alleged in his declaration for increase, and rate them at one-half total.

Your committee are of the opinion that the disabilities alleged were contracted in the service and in the line of duty, and therefore report the bill favorably with the following amendment: Strike out the words "thirty-six," and insert the words "twenty-eight," and we recommend the bill so amended do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1040.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5406.]

The Committee on Pensions, to whom was referred the bill (H. R. 5406) granting a pension to P. E. Raiger, have examined the same, and report:

That the evidence is fully set forth upon which the present claim is based in the accompanying report (House Report No. 1494), which your committee adopt, and recommend the passage of the bill, with amendments: Strike out in the title and line 6 the letters "P. E.," and insert the word "Philip" in lieu thereof.

P. E. Raiger enlisted in Company F, Fourth Pennsylvania Cavalry, September 10, 1861, and was discharged July 1, 1865.

Claimant alleges "that at Camp Campbell, District of Columbia, in the winter of 1861, he contracted typhoid fever, from the effects of which his right leg became sore and has remained so ever since, and as he advances in years his leg becomes worse."

His claim was rejected by the Pension Office "on the ground that the alleged disability did not originate in service and line of duty. Its cause existed prior to enlistment."

C. R. Scholl, examining surgeon, certifies:

"In my opinion Philip Raiger is one-half of total incapacitated for obtaining his subsistence by manual labor from disease of the right leg. It is my belief that the said disability did certainly originate in the service aforesaid in the line of duty. The disability is permanent."

The board of examining surgeons at Lebanon, Pa., Drs. Umberger, Guilford, and Linamesane, certify, April 6, 1881:

"Judging from his present condition, and from the evidence before us, it is our belief that the sores on his right leg did originate in the service, and the disability is permanent, cicatrices of sores existing. Claimant alleges greater pain in leg since sores are healed; right leg 3 inches enlarged, apparently from interstitial deposits. He alleges great pain in leg from foot to hip of a burning character, with weakness of leg and loss of power of motion of leg to a considerable extent."

In reply to the Commissioner of Pensions' request for the hospital record of soldier, the Surgeon General, United States Army, replied, November 30, 1878:

"There are no records of the within-named regiment on file in this office."

Herman J. Hambleton, Henry Raiger, John A. Ebright, and John Darkes, all comrades of claimant, and examined with him, testify substantially the same to the fact that claimant was sound and free from disease of right leg prior to and at enlistment. There is no evidence on file showing that claimant suffered with disease of right leg prior to enlistment.

As to his condition in the service, Herman J. Hambleton, comrade, in affidavit filed April 1, 1878, testifies that he bunked with claimant, and that at Camp Campbell, District of Columbia, claimant incurred a severe attack of sickness, and was carried out of the tent in a delirious state, after which affiant did not see him for a considerable time.

Henry Raiger. comrade, April 1, 1878. testifies that in October or November, 1861, at Camp Campbell, District of Columbia, claimant contracted a severe attack of typhoid fever and was under the treatment of Dr. Marsh, regimental surgeon; that when he became convalescent, it left him with the right leg drawn up, being unable to put the leg to the ground, and the leg became full of running sores.

John Darkes and John A. Ebright, comrades, testify substantially the same.

Since discharge.—Dr. S. B. Heckman testifies "that he was called upon in the fall of 1871 to treat claimant for a very sore leg, which he treated off and on until 1876. Description of leg: Enlargement of tibia; skin of shiny nature: muscles hypertrophied; varicose veins; size of leg at ankle, 11 inches; at middle, 18¾ inches; knee, 16½ inches. *Sound leg* at ankle, 10 inches; middle, 16; knee, 15. Leg is incurable unless amputated."

Claimant alleges that he had no medical treatment from discharge to 1871, and his wife testifies that she treated claimant's leg with domestic remedies from the date of his discharge to 1871.

In addition to the above testimony your committee have examined the report of the special examiner, and have fully satisfied themselves that the diseased leg is a consequence of an attack of typhoid fever from which soldier suffered whilst in service, and that the disability continues in an increasing degree. They therefore report the bill favorably, and recommend its passage.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1041.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1459.]

The Committee on Pensions, to whom was referred the bill (S. 1459) granting an increase of pension to Walter A. Donaldson, have examined the same, and report:

The claimant, Walter A. Donaldson, enlisted June 21, 1861, as captain of Company F, Seventy-first New York Volunteers, and served until discharged, November 4, 1863. He applied for a pension November 12, 1863, which was allowed at the rate of $5 per month. This was based on a cut on left leg by his horse falling on him at second Bull Run, August 29, 1862; gunshot wound of neck at battle of Chancellorsville May 3, 1863; gunshot wound of right thigh at battle of Gettysburg, July 2, 1863; and bleeding piles from hard marching.

This amount was increased to $10 from May 4, 1870. Another application for increase was rejected December 5, 1873. His application for arrears was also rejected, but another application for increase was allowed at $15 from September 21, 1877. This was increased to $20 from November 26, 1881. It does not appear that any application has been made since for further increase.

The affidavit of Charles F. Russell, M. D., dated April 16, 1886, is presented, which details at length the present condition of this soldier, and shows that he is now unable to perform any manual labor whatever, and the letter of claimant and other papers are also filed.

Your committee, after a careful consideration of this case, think that the evidence warrants an increase of the pension, and therefore report back the bill with a recommendation that it do pass, with an amendment: Strike out the word "fifty" and insert the words "thirty-five," in the eighth line.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1042.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 2397.]

The Committee on Military Affairs, to whom was referred the petition of Turner C. Goodrum, of Moscow, Hickman County, Kentucky, praying to be allowed $100 additional bounty under the act of July 28, 1866, having had the same under consideration, beg leave to submit the following report:

The petitioner states that during the late war he was a member of Company B, Sixth Regiment Tennessee Cavalry Volunteers; that through ignorance of the law he did not apply for the $100 additional bounty to which he was entitled; that he made application to the Second Auditor of the Treasury for the payment of this bounty, but that that official declined to pay it.

Your committee addressed a letter to the Second Auditor for information upon this subject, and received the following answer:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., March 9, 1886.

SIR: In reply to your letter of the 6th instant, inclosing petition for additional bounty, I have the honor to state that the records of this office show that Turner C. Goodrum, late private Company B, Sixth Tennessee Cavalry, was paid the $100 bounty under act of July 22, 1861, by Paymaster Asa Holt, July 3, 1865, when discharged from the service.

The final statements in case of this soldier indicate that he was *discharged by reason of wounds received in the line of duty*, and on this hypothesis he would have received $100 bounty under act of July 28, 1866 (known as the "additional bounty"), had he applied in time. The time for filing claims under this act expired by limitation July 1, 1880, and as the soldier presented no claim for the bounty in question prior to said date, of course such a claim could not now be entertained by the accounting officers.

This office does not wish to be understood as stating definitely the cause of the soldier's discharge from the service; the above supposition needs confirmation by the records of the War Department.

The petition of soldier is herewith returned.

Very respectfully,

H. C. HARMON,
Acting Auditor.

Hon. J. D. CAMERON,
United States Senate, Washington, D. C.

Your committee, in answer to its request of the War Department for the military history of Mr. Goodrum, received the following reply:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 29, 1886.

SIR: * * * I have to respectfully inform you that it appears from the records that Goodram Turner, private Company B, First West Tennessee Cavalry (subse-

quently Sixth Tennessee Cavalry), was enrolled August 25, 1862, and mustered into service November 13, 1862, at Bolivar, Tenn., for three years, and was discharged July 1, 1865, at Pulaski, Tennessee, for disability, as of Company B, Sixth Tennessee Volunteers.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

Hon. J. D. CAMERON,
United States Senate.

From the above it will be seen that Mr. Goodrum was discharged from the service on account of disability, and is therefore entitled to the additional bounty granted by the act of July 28, 1866, and your committee are of the opinion that the petitioner ought not to be deprived of the same on account of his ignorance of that law, and therefore beg leave to report the accompanying bill and recommend its passage.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1043.

IN THE SENATE OF THE UNITED STATES.

MAY 11, 1886.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7183.]

The Committee on Military Affairs, to whom was referred House bill 7183, *have duly considered the same, and submit the following report:*

In the House the following report was made from the Committee on Military Affairs:

The purchase of this property is recommended by all the officers of the Army, from the quartermaster at San Antonio, Tex., to the Chief Quartermaster of the Army, and also by the Secretary of War. The recommendations of the various quartermasters are favorably concurred in by the various commanding officers concerned. Their recommendations and indorsements are as follows:

HEADQUARTERS DEPARTMENT OF TEXAS,
OFFICE OF CHIEF QUARTERMASTER,
San Antonio, Tex., November 7, 1885.

SIR: I respectfully invite especial attention to the conditions of the lease made with J. H. Kampmann, dated July 1, 1885, for tract of land near the Government reservation at this place, which provides that the United States may purchase the tract for the sum of $4,650.

I regard it greatly to the advantage of the Government to purchase this land at the outset, for which reason I present the matter for consideration.

It is a valuable tract of land, with present worth much beyond the appraisement. It lies very favorably for the purposes of the military establishment here, both for requirements of drill and temporary encampment; is well watered and well drained.

The need of such a piece of land must exist as long as a military force is maintained here.

In a very few years the purchase money will be paid in rents, while by purchase all rents will be saved, and the United States be put in possession of a valuable property at a nominal price, which will constantly increase in value. I therefore respectfully recommend that steps may be taken to secure its purchase at an early day.

As I have stated, the price is but $4,650, but there will be some expenses in procuring abstract of title, copies of title papers, and search of records; hence I recommend that the sum of $5,000 be asked for purchase of land and expenses incident thereto.

Very respectfully, your obedient servant,

J. G. C. LEE,
Chief Quartermaster.

The ADJUTANT-GENERAL,
Department of Texas, San Antonio, Tex.

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, November 14, 1885.

Respectfully forwarded to headquarters Division of the Missouri, approved and recommended. This property is offered at a very cheap price, and it will be in the interest of economy to purchase it.

D. S. STANLEY,
Brigadier-General, Commanding.

To CHIEF QUARTERMASTER OF DIVISION.

HEADQUARTERS DIVISION OF THE MISSOURI,
OFFICE CHIEF QUARTERMASTER,
Chicago, Ill., November 21, 1885.

Respectfully returned to the adjutant-general of the division, with recommendation that this communication be forwarded for the action of the War Department.

CHAS. H. TOMPKINS,
Assistant Quartermaster-General, Chief Quartermaster.

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, November 23, 1885.

Respectfully forwarded to the Adjutant-General of the Army, concurring in the recommendation of the commanding general, Department of Texas.

J. M. SCHOFIELD,
Major-General, Commanding.

ADJUTANT-GENERAL'S OFFICE,
Washington, November 27, 1885.

Respectfully referred to the Quartermaster-General.

R. C. DRUM,
Adjutant-General.

QUARTERMASTER-GENERAL'S OFFICE,
November 30, 1885.

Respectfully submitted to the honorable the Secretary of War, with recommendation that an estimate be made and presented to Congress for $5,000, and authority to purchase the drill and target ground required. If the above shall be approved, an estimate is prepared and submitted with these papers.

S. B. HOLABIRD,
Quartermaster-General, U. S. A.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., November 30, 1885.

Hon. SECRETARY OF WAR:

SIR: I have the honor to transmit herewith an estimate for $5,000 for the purchase of 310 acres of ground near the post of San Antonio, Tex., now under lease to the United States at the rate of $600 per annum and used for drill purposes.

I recommend that Congress be asked to appropriate the above sum, believing that it is economy to do so rather than to continue to pay the high rent named.

Very respectfully, your obedient servant,

S. B. HOLABIRD,
Quartermaster-General.

True copies.

J. G. CHANDLER,
Deputy Quartermaster-General.

[House Ex. Doc. No. 93, Forty-ninth Congress, first session.]

Letter from the Secretary of the Treasury, transmitting additional estimates from the Secretary of War of appropriations for the service of the Quartermaster's Department, United States Army.

TREASURY DEPARTMENT,
February 25, 1886.

SIR: I have the honor to transmit herewith, for the consideration of Congress, additional estimates of appropriations for the service of the Quartermaster's Department, United States Army, submitted by the Secretary of War, as follows:

Drill ground near San Antonio, Tex..... $5,000 00

* * * * * * *

Respectfully, yours,

D. MANNING,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1887, by the Quartermaster's Department, United States Army.

Drill ground near San Antonio, Tex.:

For the purchase of three hundred and ten (310) acres of land near the post at San Antonio, Tex., for drill purposes. (Submitted) $5,000 00

NOTE.—The tract of land, the purchase of which is now contemplated, was leased on the 1st of July last, at the rate of $600 per annum, for drill ground and field-piece target range. Under said lease the United States can purchase the tract for the sum of $4,650, and it is deemed economy to do so.

The sum of $5,000 is asked to cover the purchase price of the land and the expenses incident thereto.

* * * * * * *

It appears to your committee that it is the part of economy to purchase this ground. They accordingly recommend that the bill do pass.

Your committee have carefully examined the foregoing report and find the statements correct. Your committee believe that it is for the best interests of the Government to purchase the land, and that the purchase will be in the interest of economy and result in actual annual saving, and therefore recommend its passage.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1044.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4163.]

The Committee on Pensions, to whom was referred the bill (H. R. 4163) granting a pension to Dr. William H. Sheffield, have examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

[House Report No. 654, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred House bill 4163, *beg leave to report:*

The claimant asks for a pension on the ground of disabilities incurred while acting as a voluntary surgeon at the hospital at Harper's Ferry, from September, 1862, to some time in November, 1862.

It appears, from the sworn testimony furnished the committee, that in September, 1862, the claimant was a regular practicing physician, and was at that time in good health, and with a strong, robust constitution; that on learning that the portion of the United States Army of the Potomac then at Harper's Ferry were suffering from a malignant typhoid fever and from a lack of medical assistance, and at the request of two friends of his, who had a brother there sick with said disease, he left his home and practice and went to Harper's Ferry; that on arriving there and seeing the extent of the sickness and the scarcity of medical assistance, he offered his services as a volunteer surgeon to Dr. James D. Hewett, the surgeon then in charge of said hospital, which were accepted, and that thereupon claimant entered upon and continued in the discharge of his duties to the best of his abilities, giving his services day and night until he was himself stricken down with the same disease; that he remained there sick until about the 7th day of November, 1862, when, upon the urgent advice of said surgeon in charge, he started for his home; that on reaching the village of Canisteo on his way home he was unable to proceed farther, and he was compelled to remain there some two months; that after his return home he continued sick for a long time, and continued so feeble that he did not attempt to resume the practice of his profession until the latter part of the summer of 1863; that he found himself so enfeebled that he was unable to practice medicine, and that he has since been unable to follow any other business.

That for the first ten years after his said sickness his earnings did not exceed $100 per year, and that since then his earnings have not exceeded $25 per year, and that he still remains, from the result of his sickness, entirely unable to pursue his profession or engage in any other business, and that in his opinion his continued poor health is the result of the malignant typhoid fever he had while at Harper's Ferry.

The good character of the claimant as a man and as a physician, the fact that he was, when going to Harper's Ferry, in 1862, a strong, robust man, in vigorous health, that he came home from there sick and has ever since been broken down and in feeble health, and physically incapable of practicing his profession or performing manual labor, is fully shown by the affidavits of six of his neighbors, who knew him before, at the time of, and since his going to Harper's Ferry.

Dr. Chamberlain, who had known the claimant before he went to Harper's Ferry, states in his affidavit that he saw him on his return: that he was then very sick, and that he has since been in a broken-down condition of health. That when he went to Harper's Ferry he was a strong, robust, and healthy man, and he and another physician personally acquainted with the claimant give the opinion that his present physical condition is the result of the severe tit of sickness at Harper's Ferry.

Dr. James D. Hewett in his affidavit states that he was, in the year 1862, first assistant surgeon of the One hundred and seventh Regiment New York Volunteers, and in charge of the hospital of the Third Brigade, First Division, Twelfth Army Corps, Army of the Potomac, during an epidemic of malignant typhoid fever, which broke out in the brigade to which he was attached after its exhausting march from the battle-field of Antietam to Harper's Ferry and Maryland Heights.

He further states—

"That at that time I was in want of adequate assistance in the care of the several hundred of our sick soldiers, and Dr. W. H. Sheffield, of Greenwood, Steuben County, New York, responded, among others, to our call for help, came from his home to our fever-stricken camp, and offered his professional services in the care of our sick. At much personal risk and sacrifice of his own comfort and safety he performed able and ungrudging service in forwarding my work in hospital. While on duty there he himself contracted the fever from exposure, overwork, and the privations of our camp life. I myself prescribed for him, but finally became convinced that his only chance of recovery lay in return home, to be nursed and treated in a better way than our comparatively limited camp resources afforded. He returned home accordingly, and I have not seen him from that time to the present time. Although he recovered from the disease he seems to have done so with a shattered constitution, and his present invalid condition I believe to be the result of the malignant typhoid fever contracted while patriotically engaged in the service of his country in my fever hospital at Harper's Ferry at the time above specified."

The committee feel satisfied that the claimant has established a just and meritorious case.

We recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1045.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4199.]

The Committee on Pensions, to whom was referred the bill (H. R. 4199) granting a pension to William B. Jacobs, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

[House Report No. 244, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4199) granting a pension to William B. Jacobs, submit the following report:

William B. Jacobs enlisted as a private on the 26th day of October, A. D. 1862, as a recruit for the Fifty-ninth Regiment of Ohio Volunteer Infantry, commanded by Col. James P. Fyffe, in the service of the United States in the war of the rebellion. That he was recruited by Lieut. George P. Tyler, at Russellville, Ohio, by whom he was duly sworn into the service of the United States as a private soldier. He was taken with the company of which he was a member to Camp Dennison, in Hamilton County, Ohio, where he continued in the service of the United States as a private soldier until about the 25th day of December, A. D. 1862, but was never regularly mustered into the service; during the time he was so in the service, and in the line of his duty as such soldier, the evidence abundantly shows he contracted a severe cold by reason of exposure which he could not avoid, and which resulted in an inflammation of his right eye, which became so aggravated as to cause his other eye by sympathy to become inflamed and weak to such an extent that it became necessary to have the ball of his right eye removed, to which operation he submitted under the advice of eminent physicians.

Dr. J. N. Salisbury, a reputable physician, and of good standing in his profession, states that he was the family physician of the said William B. Jacobs, and on the examination of his books he finds no treatment for the eye of the said William B. Jacobs prior to his enlistment, but later, some time before 1864, he did prescribe for his eye, a year or two before he went blind. He says the eye was actually gone in 1864 or 1865.

S. M. McIlheny swears that he knew William B. Jacobs for many years before he went into the service, and two years before he enlisted he lived within one-fourth of a mile of the said Jacobs, and during that time he never knew of his having anything the matter with his eyes nor of any other bodily infirmity.

Lieut. George P. Tyler, in his affidavit, states that on the 26th day of October, A. D. 1862, he enlisted and swore into the service of the United States William B. Jacobs, and at the time he enlisted he believed him to be a sound man, he having known him for years previous to that time, and never knew of his being sick or complaining of any ailment. He further states that he took the recruits for the Fifty-ninth Regiment Ohio Volunteer Infantry to camp, and embarked at Ripley, Ohio, on a steamboat for Cincinnati, Ohio, and the steamer was so crowded with troops that his recruits (among whom was the said William B. Jacobs) were put on the hurricane deck and remained there during the entire trip to Cincinnati. It rained on them the whole night. They had no blankets, and before morning the rained turned to sleet.

Arriving at Camp Dennison, they had no wood to build fires, and had to repair their quarters before they could occupy them, and from this exposure Lieut. George P. Tyler says that William B. Jacobs took cold and it settled in his right eye, causing inflammation of the same, and it grew worse, so that when he had the recruits examined by United States surgeon at Camp Dennison to be mustered into the United States service, William B. Jacobs was rejected on account of the inflammation of his right eye, since which time the said William B. Jacobs has had his right eye removed from its socket.

Claimant says post surgeon gave him a certificate of disability and he returned home, which certificate of disability was delivered by claimant to his attorney for the purpose of procuring his pay from the State of Ohio while he was in the service of the United States, and is now lost, as he is informed by his said attorney. Claimant further says that up to the time of his enlistment his eyes were in a sound and healthy condition, and ever since he contracted the cold and disability aforesaid he has suffered greatly in consequence of the diseased condition of his eye, and he has become greatly enfeebled and disabled in bodily health to such an extent that he has not been able to perform manual labor or to pursue his occupation as a farmer. He is now in his forty-fourth year; he has never received any compensation for his services from any source whatever, and he is advised that he is not entitled to any relief under existing laws relating to pensions.

The evidence clearly establishes the fact that he was a healthy man when he was enlisted and sworn into the United States service, and that he is now disabled, and his disability was incurred while in the service of his country, and has continued down to the present time, disabling him from the performance of manual labor.

Your committee recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1046.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3614.]

The Committee on Pensions, to whom was referred the bill (H. R. 3614) granting a pension to Charlotte Buck, have carefully examined the same, and adopt the report of the House of Representatives, with the recommendation that the bill do pass.

James Buck, a private in Company A, Sixteenth Regiment United States Infantry, was enlisted March 1, 1864, for the period of three years or during the war. He served faithfully until and during the battle at Jonesborough, Ga., September, 1864, when he was seriously wounded, and afterwards, on the 9th day of November, 1864, he died at Hospital No. 1, Chattanooga, Tenn., from the injury thus received.

Charlotte Buck, the claimant in the case, filed her application for pension as the dependent mother of said deceased soldier, which was afterwards, on the 10th day of April, 1867, duly granted, but subsequently suspended on the ground that claimant was the step-mother of said soldier, and therefore, under the law, not entitled to the pension.

The claimant, at the time of the birth of said James Buck, was a widow, and lived in the family of his parents. The mother of James died when he was three days old, the claimant having exclusive charge of the child from his birth. She remained in the family, nursing, dressing, and in every respect caring for said child, until she married the father of the child.

From the birth of said James Buck until he entered the Army the claimant was recognized by him and all who knew them as his mother. The father became and was for many years before the son entered the Army so habitually intemperate as to entirely fail to provide for the support of his family.

The evidence shows that James, from an early age, assisted materially in the support of his said mother, and when he entered the service he gave her his bounty money, and sent her from the field much of his earnings. She is now in very destitute circumstances. The father died a confirmed inebriate, having abondoned his family, leaving claimant and said James to provide for themselves when he (said James) was eleven years old.

In view of all the facts of this case, your committee find claimant entitled to be restored to the pension-roll, and recommend the passage of the bill for that purpose.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1047.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4882.]

The Committee on Pensions, to whom was referred the bill (H. R. 4882) granting a pension to Washington T. Otey, have carefully examined the same, and adopt the report of the House of Representatives and report in favor of the passage of the bill.

[House Report No. 1755, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4882) granting a pension to Washington T. Otey, submit the following report:

Claimant was enrolled in Company F, Sixty-second Illinois Volunteers, on the 15th day of December, 1861, and served until March 6, 1866, when he was mustered out with the rank of sergeant.

On September 27, 1864, claimant states while at Pine Bluff, Ark., he was ordered by Lieut. Col. Stephen W. Meeker to take an insane soldier and report with him to General F. Steele at Little Rock, Ark., which he did. General Steele ordered claimant to take one more insane soldier with two guards and proceed to Washington, D. C., and place said insane soldiers in Government Asylum. While proceeding to Washington and when opposite Hickman, Ky., on board boat, about 11 o'clock on the night of September 29, 1864, one of the insane soldiers asked for a drink of water, and on going to get insane soldier a drink said soldier caught claimant's foot, causing him to stumble and fall head first to the bottom of stairway, causing injury to his back, from which he has never recovered.

No person witnessed the accident excepting the two insane soldiers. The other two guards were asleep at the time of the accident, and as they were German and unable to understand English, claimant was not able to make them understand the nature of his mishap. His injury, however, was not at the time sufficiently serious to prevent his fufilling his mission and returning to his regiment.

Claimant's back continues to be a source of great distress to him, and at the present time he is frequently prostrated for weeks at a time, unable, without assistance, to turn himself in his bed.

His claim for pension was rejected on the ground that there was no record of alleged injury to back, and claimant's admitted inability to prove the origin of the same in line of duty.

The evidence in the case indicates clearly that, just before claimant parted from his regiment to go to Washington with the insane soldiers, he was sound and free from disability, and that immediately upon his return his injury was made known to several comrades.

John York, a comrade, testifies that he was well acquainted with claimant, and that when he returned from Washington he was disabled by an injury to his back, and that he was more or less disabled and unfit for active field duty on account of said injury during the remainder of his service.

George W. Smith, also a comrade of claimant, testifies to same as above.

James H. Wasson, comrade, testifies—

"That before claimant went away with insane prisoners as guard, he, claimant, could jump further than any other member of the company, and I never heard him complaining of his back. Saw claimant when he returned to his regiment and he was at that time complaining of his back, and informed affiant that he got hurt by one of the insane soldiers catching his foot and throwing him down a stairway. He had a habit of putting his hands on his back and hip, as though in pain. I remember that when he came back he complained of his back and attended sick call. Know that he was disabled from the performance of his duty."

Jacob Johnson testifies that he knew claimant to be sound and well at enlistment. Knew him to be suffering from and disabled by some trouble with his back at the date of his discharge from the service. For two months following said discharge he was unable to turn himself in bed without assistance. Has seen claimant since then as often as once a month, and he always complained of his back, and a good portion of the time he has been entirely disabled for manual labor.

Medical examinations of recent date show that claimant is disabled in a pensionable degree.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1048.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6770.]

The Committee on Pensions, to whom was referred the bill (H. R. 6770) granting a pension to Ferdinand Koehler, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

It appears from the files in this case that claimant enlisted in Company C, Second Missouri Cavalry, November 22, 1861, and was discharged March 16, 1863, upon surgeon's certificate of disability. In March, 1879, he applied for a pension, alleging internal bleeding hemorrhoids. This application was rejected on ground of no record and no medical treatment in service. He claims that he was treated in regimental hospital, and no records of that regiment are on file. The certificate upon which he was discharged says he was unfit for duty six months before discharged.

Dr. Edward Mayer and several neighbors testify that claimant was an unusually sound man when he enlisted. The former also testifies that claimant was very sick while the regiment was stationed at Saint Louis.

Sergeant Pousch, of the same company, testifies to his sickness in service, and that at the time of his discharge he was suffering from his back and spells of bleeding at his bowels, and that he testifies to this from personal knowledge. Christian Ott, a comrade, corroborates this.

Dr. Mayer testifies that he became his family physician when he returned from the Army, and that from time of his discharge to the present claimant has been a diseased and disabled man.

B. Warsenger, Wilson Mills, and Andrew Frasier testify as to continuance. Dr. L. Dyer testifies as to treatment for hemorrhoids in 1865. The examining board of surgeons report him totally disabled with hemorrhoids and asthma. His inability to procure medical evidence in service at or immediately after discharge seems to have been the cause of rejection. He served sixteen months, entering the service an unusually strong man, and came out completely broken down. The existence of the disease in the service soon after discharge and ever since seems to be established.

Your committee recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1049.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1818.]

The Committee on Pensions, to whom was referred the bill (H. R. 1818) granting a pension to H. L. Kyler, have carefully examined the same, and adopt the report of the House of Representatives, and report in favor of the passage of the bill.

H. L. Kyler was a private in Company A, One hundred and sixty-seventh Ohio Volunteers, and was pensioned for neuralgia affecting the eye sight incurably. His pension was revoked in 1882 on the ground that the disability existed prior to enlistment.

Upon a special examination by the agent of the Pension Bureau, it was developed that Dr. J. M. Saunders, of Oxford, Ohio, had complained to the Department and requested Mr. Kyler's pension to be revoked. Dr. Saunders is reported by the special examiner to be a personal enemy to Kyler, and to evidently be animated by ill-will and hatred. The examiner also reports Kyler to be a man of the highest standing and integrity. The truth is that Kyler is marshal of Oxford, and had incurred the enmity of Dr. Saunders while discharging his official duty in a matter wherein Dr. Saunders was culpable. Under these circumstances Dr. Saunders's testimony is entitled to no consideration. On the other hand, eleven witnesses, one of them assistant surgeon of the regiment, swear to Kyler's soundness and exemption from affection of the eyes at enlistment.

We are utterly unable to concur with the Pension Bureau in its suspension of Kyler's certificate. We therefore recommend the passage of the bill.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1050.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7074.]

The Committee on Pensions, to whom was referred the bill (H. R. 7074) granting a pension to William P. Carleton, have examined the same, and report, that an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7074) granting a pension to William P. Carleton, submit the following report:

Claimant enlisted in Company B, Second Illinois Light Artillery, August 18, 1861, and served until July, 1865. In 1879 he applied for a pension, alleging disease of liver, the result of diarrhea, which was rejected on the ground of no record and inability of claimant to produce satisfactory evidence. The hospital records show that claimant was in hospital sixty days in the summer of 1862. Thomas J. George, a comrade, testifies that claimant was sick in the service and was absent from the company for some time on that account.

George W. Dougherty states in his affidavit that claimant was in poor health when mustered out—was very weak and bloated—worked for affiant and was disabled one-half of the time. Lewis G. Emmons testifies that he saw claimant at discharge, and his health was poor.

Dr. S. L. Ellis testifies to having treated claimant for disease of the liver for past twenty years; that the right lobe of liver was enlarged. Dr. Thomas J. Norris testifies to treating him in 1868 and for two years thereafter for chronic disease of the liver. Dr. J. H. Campbell testifies to being called in consultation in 1876; found his liver enlarged; reduced in flesh; considerable debility. The examining board of surgeons at Macon, Mo., report March, 1884, "liver enlarged and tender; one-fourth disabled." In May, 1884, the same board report him totally disabled. This soldier served four years in the Army. The proof is strong that when he enlisted he was a strong, hearty man. That he was sick in the service is shown by the hospital record. It is also proven that he came out of the service in ill health, and that he has suffered ever since with enlargement of the liver.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1051.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2800.]

The Committee on Pensions, to whom was referred the bill (H. R. 2800) granting a pension to Mary Manes, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

Mary Manes is the mother of William Manes, who, while serving as a member of Company D, Fourth Wisconsin Cavalry Volunteers, died of a wound received at Baton Rouge, La., October 23, 1863. Her claim, filed January 23, 1878, was rejected by the Pension Office on the ground that the soldier was not in line of duty at the time of the receipt of thefatal wound.

It appears from the evidence on file that the soldier, while returning to his command from a few hours' leave of absence in the town of Baton Rouge, was shot down by one Bartholomew Sullivan, a private of Company A, Thirty-eighth Massachusetts Volunteers, and at the time of the shooting a member of provost guard. Sullivan was tried by court-martial for the killing of William Manes, and found guilty of manslaughter, for which he was sentenced to prison for life. The proceedings of the court, of which a copy is before your committee, appear impartial, every opportunity having been afforded the accused to justify the deed by the assistance of his counsel, Colonel Hopkins, of his own command. The deceased was slightly intoxicated at the time he met with the provost guard, under the command of a sergeant, who ordered him to return to his camp. This was about 3 o'clock p. m.; Manes was in company with other soldiers; there was no disturbance. He was leaning against a lamp-post when two of the guards took hold of him. He offered no resistance; neither did those who accompanied him. While thus held by two of the guards, some one of the latter said, "Shoot him," and at this moment Sullivan raised his gun and shot Manes dead.

William Manes enlisted May 1, 1861; was wounded in action at Port Hudson June 14, 1863, and after recovery served faithfully until shot down by the hands of a coward. The company officer, in letter conveying the sad news to the parents, speaks of the soldier's noble conduct and bravery on the field of battle, and says, "Your son was shot in the streets of this city [Baton Rouge] in the most cowardly manner possible by a soldier of the Thirty-eighth Massachusetts Volunteers."

The evidence further shows that the soldier, prior to his enlistment, aided in the support of his parents, who owned a small tract of timber land in Pine Valley, Wisconsin. His father, now deceased, was physically disqualified for hard manual labor by reason of rupture and disease of heart. Much of the soldier's earnings went to claimant's support, as much as $100 at one time having been sent to them from the Army. A married daughter has greatly aided, since the soldier's death, in the support of the claimant, who is now seventy-five years of age.

While the action of the Pension Office in rejecting the mother's claim was proper under the strict terms of the law under which pensions can be granted, your committee are of opinion that she is entitled to relief at the hands of the Government in whose service she lost a strong support by the cowardly deed of a fellow-soldier.

We therefore recommend the passage of the accompanying bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1052.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 426.]

The Committee on Pensions, to whom was referred the bill (H. R. 426) granting a pension to Elizabeth A. Robbins, have examined the same, and report that an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 426) granting a pension to Elizabeth A. Robbins, submit the following report:

Elizabeth A. Robbins, mother of William Henry Robbins, filed her application for a pension as a dependent mother in the Pension Office, which was rejected March 13, 1879, on the ground that the soldier's death was not the result of his military service. The evidence shows that claimant's son, William Henry Robbins, enlisted in the service of the United States August 13, 1861, in Company E, Seventh Iowa Volunteers. It appears from the evidence that the soldier was sent from his regiment to transact some business with the Seventh Kansas Regiment on the 27th day of June, 1863, near Corinth, Miss., and has never been heard of since. There was a stream of water between the two regiments which the soldier had to cross, which was greatly swollen on account of recent rains, and which was a very rapid stream.

C. Fleonn, captain of the company in which the soldier was a member, testifies as follows:

"I was the captain of Company E, Seventh Iowa Volunteer Infantry. On the 27th day of June, 1863, at Corinth, Miss., I gave William Henry Robbins leave to go to the camp of the Seventh Kansas Cavalry to get a pistol. The Seventh Kansas was about 1½ miles distant from our company. A creek ran between, which was heavily swollen with rains. He never returned. The cause of his absence was investigated under my orders, and all the circumstances pointed to the fact that he had been drowned in the creek. I never heard from him afterwards. He was in the line of his duty, because he went by my authority as captain. My opinion is that he was drowned.

Two comrades testify substantially to the same facts. The soldier has never been heard of since. Your committee have no doubt but what the said soldier was drowned as alleged.

The claimant is shown to have been the mother of the soldier, and that she was dependent on him for her support; that he sent her $100 after he enlisted. The father of the soldier died when he was about four years old, and his mother, who was a very poor woman, made her living by day's work, washing and the like. The soldier, after he was big enough to work, contributed all his earnings to the support of his mother. He was her only help, and she has not had any one to depend on for help since the death of the soldier, and has had to make her living by her labor. She is now very old and unable to work.

Your committee are of the opinion that this is a meritorious case, and therefore recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1053.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6453.]

The Committee on Pensions, to whom was referred the bill (H. R. 6453) granting a pension to Martin J. Reynolds, have examined the same, and report:

An examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6453) granting a pension to Martin J. Reynolds, submit the following report:

The claimant in this case was a private in Company K, Third Iowa Cavalry, enlisting October 19, 1861, and serving until August 9, 1865. He claims a pension for sunstroke and results. This claim is rejected on the ground that the result, impaired vision, is not satisfactorily shown to be the result of the sunstroke. The incurrence of the sunstroke in line of duty is satisfactorily proven by Lieut. S. S. Ward and comrades Edwin Beckwith and Hiram Reynolds. That he has been partially disabled from the effects of it is clearly established by the affidavits of some six or eight neighbors. The examining board at Parsons, Kans., report, October 22, 1884—

"The man has a dull, heavy expression of countenance; his eyelids are badly granulated; pupils contracted; can't see newspaper print at all with right eye; can see the head lines of this certificate; the sight of left eye is but little affected. We are of the opinion that there is not sufficient local disease in right eye to cause the amount of blindness that we find, nor are there any apparent reasons why the left is not as bad as the right. We therefore are of the opinion that there is some central lesion that causes this difference in power of vision, and such a lesion may be caused by sunstroke. He is, in our opinion, entitled to a three-fourths rating for the disability caused by sunstroke."

Accepting the judgment of the examining board to be correct, your committee recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1054.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6774.]

The Committee on Pensions, to whom was referred the bill (H. R. 6774) granting a pension to Bruno Schultz, have examined the same, and report:

An examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6774) granting a pension to Bruno Schultz, submit the following report:

Claimant was a private in Company F, Twenty-second Illinois Volunteers, having enlisted on June 25, 1861, and was discharged July 7, 1864. He alleges in his declaration for pension that he was ruptured in right side, caused by falling over a stump at night about January 17 or 18, 1864, while on the retreat from Dandridge to Loudon, Tenn. His claim was rejected because there was no record of his disability in the service. Claimant is shown to have been a stout, healthy young man prior to enlistment, a cooper by trade. The circumstances of his injury as alleged are shown by the testimony of Lieutenant Scheurmann and comrades John Kimich and Conrad Steffman; and three persons, among them his employer, testify to his showing his rupture within eight days after his return from the service. The report of the medical board of examiners in 1876 shows "right scrotal hernia of large size and difficult of retention," and that the disability is permanent. The last evidence, filed in July, 1884, shows claimant disabled for work at least one-half the time.

It would seem from this evidence that the injury was incurred in the service and line of duty, and therefore recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1055.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6117.]

The Committee on Pensions, to whom was referred the bill (H. R. 6117) granting a pension to James D. Cotton, have examined the same, and report:

An examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6117) granting a pension to James D. Cotton, submit the following report:

The claimant is the father of Thomas J. Cotton, late a private in Company H, Twenty-first Missouri Volunteers, who was killed in battle April 6, 1862, at Pittsburg Landing, Tenn. There is some evidence to show that the soldier, who was eighteen years old when killed, had prior to enlistment worked for his father, who was a blacksmith of small means. The assessment rolls show that he was taxed on a valuation of $200. In 1868 he bought (and now owns) a small farm, which is assessed at $350. He is now 65 years of age, and unable to perform manual labor. The soldier's mother died a few days after his birth. The Pension Department, in investigating the case, ascertained that the son did not contribute to his father's support at the time of his death, and could not therefore allow the claim.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1056.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1997.]

The Committee on Pensions, to whom was referred a bill (H. R. 1997) granting a pension to Nancy R. Brown, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1997) granting a pension to Nancy R. Brown, respectfully report:

Nancy R. Brown, widow, is the mother of Robert M. Brown, late a lieutenant of Company K, One hundred and forty-fifth Pennsylvania Volunteers, who was killed at the battle of Fredericksburg, Va., December 13, 1862.

Robert M. Brown was mustered into rank September 12, 1862, and is reported present at all roll-calls up to the time of his death.

The mother bases her claim for pension upon the fact that soldier was her support, as her husband was an invalid and unable to support her.

The Pension Office rejected her claim upon the ground of non-dependence. Quite a number of witnesses testify as to the property and resources of claimant's husband, John S. Brown, the father of soldier, and the evidence all goes to show that her husband owned considerable real estate in Erie, Pa., but received no income from any of it, and had to pay the taxes on the same, and was finally bankrupt. G. D. Price, brother, April 7, 1882, certifies by verified transcript "of proceedings against the claimant at the May term of the court of common pleas, 1878, judgment for debt, interests and costs $6,968.90, and sale by the sheriff of all property described by the preceding witness."

Joseph Blenner testifies "that he was associated with John S. Brown, soldier's father, in oil operations, as a co-partner from 1863 or 1864, to 1867 or 1868. The income of the parties interested therein during these years was nothing and worse than nothing. The operations in oil proved a loss." The above evidence is corroborated by two other witnesses.

The evidence in regard to the son's having rendered support to his mother is very full indeed, and the purport of it is that soldier did contribute to the support of his mother before he enlisted, and the company had received no pay up to the time of soldier's death. Your committee deem it unnecessary to quote more than the two following affidavits, as the rest are similar.

George Demand, Erie, Pa., testifies—

"The soldier was in the office of the Philadelphia and Erie Railroad Company, and I think he paid his wages to his mother, as on one occasion she said she would pay me a small sum which the soldier's father owed me when the wages of the soldier should be paid him; she expected money from him then."

Mary Ackerman "resided in claimant's family and knows that the soldier was in the habit of giving his mother a large share of his earnings to use in keeping up the expenses of the family."

H. G. Wanren, Erie, Pa., "knows that the soldier contributed to the support of his mother's family by purchasing groceries and provisions."

Your committee believe from the above testimony, and much more of the same character, which it is not necessary to detail, that this mother was dependent upon her son to a considerable extent, and that he did contribute to her support. They therefore recommend the passage of the bill as amended by striking out all after the word volunteers in line 7, and inserting in line 4, after "pension-roll," "subject to the provisions and limitations of the pension laws."

The bill is herewith reported to the Senate, with the recommendation that it do pass.

C

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1057.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. CAMDEN, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2940.]

The Committee on Pensions, to whom was referred the bill (H. R. 2940) granting a pension to John T. Pennington, have carefully examined the same, with the papers therewith submitted, and respectfully report:

Your committee respectfully recommend the adoption of the House report in this case, which is as follows:

It appears from the original declaration for pension filed by said Pennington in the Interior Department that he was a private in Company B, Fiftieth Regiment Missouri Enrolled Militia; that he was enrolled in said service in July, 1862, and was honorably discharged therefrom by surgeon's certificate, at Kirksville, Mo., date not stated. It further appears from said declaration that while said regiment was on a march to re-enforce United States troops near Callao, Mo., on the 9th day of August, 1862, while riding down a hill, he was badly ruptured, and that he was treated by Surgeon S. P. Knight, of the board of enrollment.

An additional affidavit of Pennington shows that he served in no other military organization during the war; that he never received any formal discharge from his command, because when he was injured he was relieved from duty by his captain and sent home. He was again called out for military service in 1864, but upon examination of the surgeon he received a certificate of discharge, signed by the surgeon of board of enrollment, which stated his disability to be rupture (the certificate is on file in the papers forwarded to the committee by Pension Bureau). He says that when he received the injury he was under the immediate command of Maj. John B. Dodson, of the Eleventh Missouri State Militia Cavalry, United States Volunteers. He further affirms that the Missouri Enrolled Militia never received any discharges; that when their services were no longer needed they were disbanded and sent home.

In evidence is the affidavit of Dr. Charles Atterberry, who affirms the soundness of Pennington at the date of his enrollment in the militia.

Maj. John B. Dodson swears that the petitioner, while in the line of his duty, and without fault on his part, and while on detached service from his regiment with a portion of the affiant's cavalry, when marching from Macon City to Callao, Mo., in riding very rapidly down a hill, was badly ruptured on both sides. Dodson was major of Eleventh Missouri State Militia.

The affidavit of Dr. Basil C. McDarrett states that he is a practicing physician, and has been for nine years; that he made a personal examination of Pennington, whose family physician he is, and he finds that he is badly ruptured on both sides.

John Burton, examining surgeon by appointment of the Commissioner of Pensions, certifies, under date of 1877, that claimant is [illegible]2 disabled for obtaining his subsistence by manual labor, and that the disability is permanent. He further certifies that claimant "has scrotal hernia on both sides, neither of which is reducible; the tumors when down are each fully three inches in diameter, and extend to the lower part of the scrotum." Said surgeon states that claimant asserts that he cannot wear a truss, and that the tumors are painful. The tumors are always present except when pressed back.

There is no record of Fiftieth Enrolled Missouri Militia in the War Department.

The Interior Department rejected the application for pension because it was not shown to the satisfaction of the Commissioner of Pensions that the applicant was in the service of the United States when he received the injury. That Pennington was in said service is shown by the report of the adjutant-general of the State of Missouri.

The committee are of opinion that the claimant has exhibited a right to pension, and we recommend the passage of the accompanying bill.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1058.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2415.]

The Committee on Claims, to whom was referred the bill (S. 381) for the relief of the trustees of the Christian Brothers' College of Saint Louis, Mo., have examined the same, and report as follows:

The following is a copy of the bill:

A BILL for the relief of the trustees of the Christian Brothers' College of Saint Louis, Mo.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to the trustees of the Christian Brothers' College of Saint Louis, in the State of Missouri, out of any money in the Treasury not otherwise appropriated, the sum of $35,000, in full compensation for the use and occupation of the buildings and lands of said college during the late war by the United States troops, and for injury to and destruction of property belonging to said trustees by said troops.

This claim was before the Senate Committee on Claims and reported adversely at the second session of the Forty-eighth Congress (Rept. No. 1429) with the views of the minority. Some members of the committee not being present when the bill was considered by the committee and directed to be reported, afterwards signed the minority report and it now contains the signatures of a majority of the committee.

The following are copies of the report and the views of the minority:

The Committee on Claims, to whom was referred the bill (H. R. 6881) for the relief of the trustees of the Christian Brothers' College, of Saint Louis, Mo., have examined the same, and report as follows:

The committee have heretofore reported adversely upon Senate bill for the relief of claimants, and a majority adhere to that report (No. 1067), as follows:

[Senate Report No. 1067, Forty-eighth Congress, second session.]

The bill proposes to pay to the trustees of the Christian Brothers' College of Saint Louis, Mo., the sum of $20,000 in full compensation for the use and occupation of the buildings and lands of said college during the late war by the United States troops, and for injury to and destruction of property belonging to said trustees by said troops. The trustees of the college, in their memorial to Congress, present the following as the history of the case and the grounds for relief:

Memorial of the trustees of the College of the Christian Brothers of Saint Louis, Mo., in support of their bill for relief for the use and occupation of their said college by United States troops during the late war.

To the honorable the Senate and House of Representatives:

Your memorialists respectfully submit the following statement of facts in support of their claim for relief and compensation for the use and occupation of their college during the late war by troops of the United States:

Prior to and at the commencement of the recent rebellion the Christian Brothers' College of Saint Louis was a large, well-appointed, and flourishing institution, devoted to the

education of youth in all the practical departments of knowledge. Its pupils, drawn from all sections of the United States, number between four and five hundred, of whom two hundred lodged within the precincts of the college, and the residue attended daily from their respective places of abode in the city. From this source alone the college derived its revenue, and upon this it depended for the maintenance of its corps of instructors, and the procurement of all needed educational facilities.

Simultaneously with the inception of hostilities your memorialists were forced to submit to the occupation in part of their college by troops in the service of the United States. This extended to a considerable part of the buildings and all of the appurtenant grounds, and speedily proved to be incompatible with the preservation of discipline among the students or the prosecution of studies and scholastic exercises. With the introduction of the noise and distractions of the adjoining prison and surrounding occupation by the troops, the voice of collegiate authority was silenced, and the prizes of learning no longer proved attractive to the disheartened and bewildered students. The consequence was inevitable. At the close of the war but a small fraction of the above number of pupils remained. From the injury thus sustained the college has never recovered.

The common use by the soldiery of the halls and rooms was attended by great damage to the furniture, walls, and flooring. In several instances the partitions, and even the outer walls, were cut through and greatly injured and defaced. This subsequently necessitated the expenditure of large sums for repairs, &c., no part of which has ever been repaid to your memorialists, or to any person on their behalf. Neither have they derived any compensation whatever for the aforesaid use and occupation of their said college.

Wherefore they respectfully submit that they are justly entitled to the relief which they seek in and by the accompanying bill, and humbly pray that the same may be favorably considered by your honorable bodies, and, as in duty bound, they will ever pray, &c.

BRO. TOBIAS,

For the Trustees of the College of the Christian Brothers, Saint Louis, Mo.

Your committee have uniformly reported against granting relief in cases similar to the present, for reasons that need not be here repeated at length. We have declined to establish the precedent of holding the Government responsible in damages for injury to property in such cases. And in the absence of *contract*, express or clearly implied, for the payment of rent, the committee have almost without exception declined to recommend compensation for the occupation of buildings hired and occupied during the late war by the Federal forces. In the present case it may fairly be presumed that the occupation of the buildings in question was demanded by the military necessity of the situation; if so, the seizure and use were rightful and a legitimate exercise of the war powers of the Government. In such cases it is the settled rule, both of the Department and of Congress, not to make compensation to private owners. If, on the other hand, there was no pressing necessity of war to justify the military authorities in taking possession of the property, and their action was wanton and unauthorized, however it might be condemned, it would raise no valid claim for compensation against the Government.

The committee accordingly report back the bill to the Senate with the recommendation that it do not pass, but be indefinitely postponed.

VIEWS OF THE MINORITY.

The majority report, being short, is quoted in full, and is as follows:

The bill proposes to pay to the trustees of the Christian Brothers' College of Saint Louis, Mo., the sum of $20,000 in full compensation for the use and occupation of the buildings and lands of said college during the late war by the United States troops, and for injury to and destruction of property belonging to said trustees by said troops. The trustees of the college, in their memorial to Congress, present the following as the history of the case and the grounds for relief:

Memorial of the trustees of the College of the Christian Brothers of Saint Louis, Mo., in support of their bill for relief for the use and occupation of their said college by United States troops during the late war.

To the honorable the Senate and House of Representatives:

Your memorialists respectfully submit the following statement of facts in support of their claim for relief and compensation for the use and occupation of their college during the late war by troops of the United States:

Prior to and at the commencement of the recent rebellion the Christian Brothers' College of Saint Louis was a large, well-appointed, and flourishing institution, devoted to

the education of youth in all the practical departments of knowledge. Its pupils, drawn from all sections of the United States, numbered between four and five hundred, of whom two hundred lodged within the precincts of the college, and the residue attended daily from their respective places of abode in the city. From this source alone the college derived its revenue, and upon this it depended for the maintenance of its corps of instructors and the procurement of all needed educational facilities.

Simultaneously with the inception of hostilities your memorialists were forced to submit to the occupation in part of their college by troops in the service of the United States. This extended to a considerable part of the buildings and all of the appurtenant grounds, and speedily proved to be incompatible with the preservation of discipline among the students or the prosecution of studies and scholastic exercises. With the introduction of the noise and distractions of the adjoining prison and surrounding occupation by the troops, the voice of collegiate authority was silenced, and the prizes of learning no longer proved attractive to the disheartened and bewildered students. The consequence was inevitable. At the close of the war but a small fraction of the above number of pupils remained. From the injury thus sustained the college has never recovered.

The common use by the soldiery of the halls and rooms was attended by great damage to the furniture, walls, and flooring. In several instances the partitions, and even the outer walls, were cut through and greatly injured and defaced. This subsequently necessitated the expenditure of large sums for repairs, &c., no part of which has ever been repaid to your memorialists, or to any person on their behalf. Neither have they derived any compensation whatever for the aforesaid use and occupation of their said college.

Wherefore they respectfully submit that they are justly entitled to the relief which they seek in and by the accompanying bill, and humbly pray that the same may be favorably considered by your honorable bodies, and, as in duty bound, they will ever pray, &c.

BRO. TOBIAS,

For the Trustees of the College of the Christian Brothers, Saint Louis, Mo.

Your committee have uniformly reported against granting relief in cases similar to the present for reasons that need not be here repeated at length. We have declined to establish the precedent of holding the Government responsible in damages for injury to property in such cases. And in the absence of contract express or clearly implied for the payment of rent the committee have almost without exception declined to recommend compensation for the occupation of buildings hired and occupied during the late war by the Federal forces. In the present case it may fairly be presumed that the occupation of the buildings in question was demanded by the military necessity of the situation; if so, the seizure and use were rightful and a legitimate exercise of the war powers of the Government. In such cases it is the settled rule, both of the Department and of Congress, not to make compensation to private owners. If, on the other hand, there was no pressing necessity of war to justify the military authorities in taking possession of the property, and their action was wanton and unauthorized, however it might be condemned, it would raise no valid claim for compensation against the Government.

The committee accordingly report back the bill to the Senate with the recommendation that it do not pass, but be indefinitely postponed.

The facts stated in the memorial quoted in the foregoing report are not complete. It is further true that Saint Louis was during the entire time embraced in the period of the occupancy of the building and grounds in question in the exclusive, undisturbed, and secure possession of Federal forces, and that it was never a subject of attack, or even threatened by the Confederates. There is not one thing in the general conditions or in the circumstances of the particular case to invoke the application of any rule different from such as would justly apply to New York, Chicago, or Boston. The building and grounds in question were appropriated to the public use, not as an exigency of war nor as an act of wantonness, but regularly in the line of military expediency and in the ordinary course which involved their convenient and—not to the exclusion of others—their necessary use. Doubtless a hundred equally as available buildings could have been had within the city limits as either the Christian Brothers' College or the McDowell College adjoining it. The act of the Federal authorities in taking possession of the property for whose use compensation is asked and awarded by the House bill cannot be regarded as like action in hostile territory, nor was there a contingency in the whole war at the seat of its occupancy which could bring it within the rule which has excluded compensation for property surrendered to the exigencies of military situation. The use is proved. The amount allowed by the House bill seems reasonable and just. If there was not a written or express contract for compensation there ought to have been. The sole question involved is whether, in a State loyal to the Government, in a city therein which remained in the uninterrupted occupany and the unmenaced control of the loyal forces during the whole war, where every facility for the accommodation of all reasonable de-

mands for supplies, quarters, prisons, &c., for the United States forces existed which could have been had in any city in the Union, and with the same security and safety, the property of private parties, and more especially that of a religious order devoted exclusively to educational purposes, could be taken and used continuously for four entire years without at least an implied contract that an honest Government, under its Constitution, would make honest compensation therefor.

We cannot concur in the report, which would exclude such compensation, and we recommend the passage of the House bill.

JNO. E. KENNA.
J. B. GEORGE.
GEO. F. HOAR.
AUSTIN F. PIKE.
JAMES G. FAIR.

The reasons presented by the committee at the last Congress for reporting this claim adversely are those which have governed the committee in numerous cases of claims preferred by individuals and religious institutions.

At the first session of the Forty-eighth Congress the writer of this report from the Committee on Claims submitted a report to accompany the memorials of the trustees of the Methodist Episcopal Churches at Falls Church, Va., Fairfax Court-House, Va., Dumfries, Va., and Arlington, Va., and the petition of William N. Benkely, chairman of the committee of the Virginia Conference of the Methodist Episcopal Church, praying compensation for the destruction of the church buildings and furniture belonging to said organizations; and also the memorial of the Mount Crawford Methodist Episcopal Church, through its trustees, praying for compensation for the value of a portion of the material belonging to the Mount Crawford Church, in the State of Virginia.

We quote the following from that report:

The petition is very general in all its statements. It alleges the destruction and appropriation, by the public forces of the United States, of various church buildings and their furniture, the legal titles to which were vested in the trustees of the several religious associations before mentioned. It appears that this property, at the time of its destruction, was in that part of the State of Virginia which was the scene of early hostilities in the war of the rebellion. The church buildings were used as blockhouses and were loop-holed for musketry. On other occasions they were used as hospitals for the sick and wounded; the pews were taken out, and the timber and bricks carried off to construct winter quarters for the troops. It would hardly be denied that if the property in this case had belonged to individuals, and instead of being church property had been used for ordinary purposes, the destruction and appropriation relied upon as a ground for compensation would not warrant us in giving any relief. It cannot be denied that the principles of public law, which forbid the useless destruction and plunder of private property, are just as applicable and as obligatory in a contest like that of the late rebellion as in a war between independent states. But the restraints which operate upon the forces of one belligerent power when engaged in hostilities within the territory of another are purely moral restraints. No legal liability can result from any infraction of the law of humanity or morals in such cases.

If private property is taken when it ought not to be; if the torch is applied by ruthless soldiers to private dwellings when necessity does not require such extreme measures, such acts may be condemned by public opinion and the perpetrators may expose themselves to the penalties of military law, but they afford no ground for a claim for compensation against the government whose soldiers committed them. Exceptional cases of hardship and severity may induce governments at times to give aid to the unfortunate and to compensate for losses sustained by violations of public law, but such cases are addressed to the mercy and grace of rulers, and are not founded in any legal obligation.

Taking this case as presented by the petition of the chairman of the Virginia Conference, and it appears to be one of a very large class of cases which occurred during the late war for which no provision has yet been made by law, it does not appear in the petition or the affidavits before us that the property was either destroyed or appropriated by order of any responsible officer in the service of the United States. It is true that circumstances are stated from which a knowledge of such destruction or appropriation on the part of those in command of the troops might be inferred, and if there were but a

few cases of this character calling for redress we might risk a judgment in favor of the claimant which would imply that the property was destroyed or used by direction of competent authority. But we cannot forget that the late war has given existence to a large number of cases similar to those mentioned in this petition, and it is believed equally as meritorious, and if the Government feels it to be its duty to make compensation for the loss or destruction of property under the circumstances set forth in this case it would be better to do so under the provisions of a general law which would contain strict rules against fraud, as well as secure impartiality to all meritorious claimants.

* * * * * * *

The case of the Arlington Heights church was before the Forty-third Congress, and a report was made in that case by Mr. Pratt, of this committee, and he recommended the appropriation of $2,000 to indemnify the trustees of that church for the destruction and use of Hunter's Chapel. He based his conclusion in favor of the claimant in that case upon the fact that the property was used for religious purposes, and strongly intimated that cases of that kind were entitled to more favorable consideration than cases where the losses fell upon private individuals.

Without attempting to discuss the soundness of the distinction taken by the able author of that report, we are safe in saying that if the distinction as laid down by him is to prevail and this Government is bound to pay for all property of religious bodies used or destroyed by the Army of the United States during the rebellion, then justice to all denominations of Christians who have met with losses of the character set forth in the petition before us would seem to require the passage of a law providing for the impartial adjudication and payment of all such claims.

Your committee are reluctantly compelled to deny the prayer of the petition in this case, as they do not feel warranted in recommending an appropriation of public money for the payment of the several claims set forth in this petition, and ask to be discharged from the further consideration of this case.

At the present session this committee reported adversely Senate bill 1764 for the relief of Washington Wright and Simon Basye, surviving trustees of the Shiloh Baptist church at Fredericksburg, Va. The following is a copy of the report:

The Committee on Claims, to whom was referred the bill (S. 1764) for the relief of Washington Wright and Simon Basye, surviving trustees of the Shiloh Baptist church at Fredericksburg, Va., have considered the same, and respectfully report:

The claimants in their petition state that they "are the surviving trustees of the Shiloh Baptist church, of Fredericksburg, Va.," and "that the building owned and used by the colored Baptist people of Fredericksburg as a house of worship was injured by the shot and shell from the batteries of the Union Army at the battle of Fredericksburg in December, 1862; that when General Burnside moved his army across the Rappahannock and attacked the Confederate forces his medical officers took possession of this building for hospital uses; that in order to fit it for use for the exigencies of the pending battle, said officers tore up and removed all the pews, part of the galleries, all the window sash and blinds, one of the floors, and the furnace, all of which were thrown out in a mutilated condition and were burned up or otherwise destroyed; that said building was left in this dismantled and ruinous state when General Burnside moved his forces from Fredericksburg."

At the first session of the Forty-eighth Congress this committee submitted an adverse report (Report No. 489) to accompany the several memorials of the trustees of the Methodist Episcopal church at Falls Church, Va.; Fairfax Court-House, Va.; Dumfries, Va., and Arlington, Va., and the petition of William M. Benkley, chairman of the committee of the Virginia Conference of the Methodist Episcopal Church, praying for compensation for the destruction of the church buildings and furniture belonging to said organizations, and the memorial of Mount Crawford Methodist church, through its trustees, praying for compensation for the value of a portion of the material belonging to the Mount Crawford church, in the State of Virginia, from which we quote the following:

"It appears that this property at the time of its destruction was in that part of the State of Virginia which was the scene of early hostilities in the war of the rebellion. The church buildings were used as block-houses and were loop-holed for musketry. On other occasions they were used as hospitals for the sick and wounded. The pews were taken out and the timber and bricks carried off to construct winter quarters for the troops."

It will be seen from the foregoing that the cases are similar, and, applying the principles which governed the committee in that case, and which are fully stated in that report, and which have governed the committee in numerous other like cases, your committee are reluctantly compelled to deny relief to the claimants in the present case, and recommend that the bill be indefinitely postponed.

In report No. 533, made at the present session of Congress to accompany the bill H. R. 4411, this committee said:

The claimants' property was taken possession of upon the occupation of Paducah, Ky., by the Federal forces under General Grant, and during the whole period of alleged occupation by Federal troops Paducah was a strategic military point.

The occupation of the property by the military authorities was not only without any express contract for the payment of rent, but under circumstances which negatived the idea of an implied contract. Such occupation appears to have been under the law of military necessity, which imposes no obligation on the Government to make compensation for its use.

The remainder of the claim is for damage to the property. The Government has never assumed and ought not to assume payment for pillage or wanton depredations by soldiers.

It is claimed, however, that Saint Louis during the alleged occupation of the claimants' property was not the theater of actual hostilities or of insurrection against the Government so as to render the occupation of the property of the claimants in the present case a military necessity.

The committee, upon a careful and critical re-examination of the case, in consideration of the fact that the property occupied was the property of an educational institution, have determined to give the claimants the benefit of that suggestion; but upon an examination of the testimony presented as to the occupation of the property and the damages to it arising from such occupation, which testimony consists mainly of *ex parte* affidavits and statements in the most general terms, they are unable to arrive at a satisfactory conclusion as to the circumstances under which the property was occupied, the extent and character of such occupation, the value thereof, or the character and extent of the injury to the same by reason of such occupation.

An opportunity was afforded to the claimants to produce witnesses before the committee to establish their claim, and two witnesses were produced and examined before a subcommittee. Copies of their depositions are hereto attached, marked A and B. The claimants then announced that they did not desire to produce further testimony. The Secretary of War was requested to furnish the committee with any information to be obtained from the records of the War Department concerning the occupation of the property, and the committee were informed by him that the records afforded no information upon the subject. (See copy of letter attached hereto, marked C.)

The testimony of the officers in charge of the prison adjacent to claimants' property during the time of the alleged occupation thereof and in command of the United States troops used to guard the prison is not produced, and your committee have not been able to ascertain their names or residences. Under such circumstances any estimate which could be made by the committee of the value of the use of the premises by the Federal troops or of the damages done to the property incident to such occupation would be unsatisfactory, and they would be unable to give to the Senate satisfactory reasons for the same. They therefore report and recommend the passage of the accompanying bill referring the claim to the Secretary of War for examination through the Quartermaster's Department of the United States Army and for the determination upon equitable principles of the value of the use of said premises by the United States and the amount of damages done to the property by such occupation, and providing for the immediate payment by the Secretary of the Treasury of the amount awarded by the Secretary of War.

EXHIBIT A.

[In the Committee on Claims of the United States Senate. Before a subcommittee composed of Senators Dolph and Jones of Arkansas.]

WASHINGTON, D. C., *April* 5, 1866.

FRANCIS FITZPATRICK sworn and examined.

By Senator DOLPH:

Question. What is your age?—Answer. About fifty-two.

Q. What is your occupation?—A. I am a professor.

Q. Where do you reside?—A. In Newark, N. J.

Q. Were you at any time connected with the Christian Brothers' College of Saint Louis; and if so, between what dates?—A. I was, sir, between 1860 and 1862.

Q. What time in 1860 did you become connected with the college, and when did your connection cease?—A. My connection began in the latter part of August or the beginning of September, 1860, and I severed my connection with the college about the latter part of August or beginning of September, 1862.

Q. So that you were there about two years?—A. About two years.

Q. What was your position in the college during that time?—A. I was teaching.

Q. What branches?—A. I taught English grammar and ethics, principally.

Q. How many students were in the college during the period when you were connected with the college?—A. Probably between eight and nine hundred, that is, inclusive, between the two years.

Q. How many students were in attendance at the time you commenced?—A. Between four and five hundred.

Q. And how many when your connection with the college ceased?—A. When I severed my connection the number had diminished considerably, probably down to between one and two hundred.

Q. You say there were four or five hundred when you commenced?—A. Yes, sir.

Q. And the number had diminished down to between one and two hundred when you left?—A. Yes, sir.

Q. What was the size of the college building?—A. It was a large brick building, in an L-form, with a yard included in the vacant space.

Q. Do you recollect the number and the street?—A. I forget the name of the streets. It was on a corner, and Seventh street was one of them.

Q. What was the size of the building on the ground?—A. Probably the main building may have been 150 or 200 feet in length. The depth of one end was probably a hundred feet and of the other end probably 75 or 80 feet.

Q. How many stories high was the building?—A. I think four. I can safely say three and a basement.

Q. How many rooms were there in the lower story, what were the dimensions, and what were they used for?—A. A portion of the basement was used for a play-hall, and the other portion was used for the refectory, the kitchen, some store-rooms, and bath-rooms.

Q. Can you not give the number of rooms and their dimensions?—A. Not very accurately. I know the play-hall and the refectory were two large rooms. There was a kitchen and there was a private refectory where the professors took their meals, and a bath-room and some unoccupied rooms.

Q. State, if you can, the number of rooms, the dimensions of each, and the purposes for which they were used, on the floor above the basement.—A. I will commence with the chapel. Next the music-room, then two parlors, and I think there were eight or nine class-rooms, not all in a straight line. The chapel came first, then the music-room, then a parlor, then another parlor, and then a line of eight or nine class-rooms, with another class-room on the other end.

Q. Are you able to give the dimensions of the rooms?—A. Not exactly.

Q. Please state the number of rooms, the dimensions, and the purposes for which they were used in the third story.—A. The second story ran into the third with the chapel, the chapel occupying the story over the basement together with the next story. After that was a room occupied as our community-room, and another room next to that as a music-room, and one or two private sleeping-rooms and another study-room. On the other side was a large dormitory, with accommodations for probably one hundred students, more or less, on that floor.

Q. Please give me the number and dimensions of the rooms in the fourth story, and state the purposes for which they were used.—A. On the next story was a large dormitory, with accommodation probably for one hundred boys, and a large dormitory for

the professors. There was a clothes-room on each of the floors contiguous to the dormitories. Then in the fourth story there were some private bed-rooms for the professors and visitors. I think that is about how the fourth story was laid out.

Q. Do you know when this building was erected? If so, state.—A. Not exactly. It was erected before I went there.

Q. Do you know whether it was erected for a school building or for some other purpose?—A. It was erected exclusively and expressly for a school building.

Q. Do you know of your own knowledge what the building cost?—A. I do not, sir. I should think a building of that dimensions would cost a considerable sum.

Q. How far distant from this building was the military prison?—A. Just adjoining; the two walls came together.

Q. Were they separate walls?—A. I think they were separate walls. I could not say.

Q. Built adjoining each other?—A. Most likely they joined together.

Q. Did they join in front or in rear?—A. The ends joined.

Q. Did they join on the street?—A. Yes, sir.

Q. Did the buildings run up to the street, or were there yards in front?—A. There were no yards in front; the yards were in the rear.

Q. For what distance did the walls of the buildings join each other from the front toward the rear?—A. Probably a hundred and twenty-five, a hundred and thirty, or a hundred and forty feet, less or more; somewhere about that.

Q. Was the building which was used for a military prison the McDowell College?—A. Yes, sir.

Q. Did that continue along the line of the lot, or was it built in the shape of an L?—A. No, sir; it continued along the line of the lot.

Q. Did it extend further in the rear than the college building?—A. No, sir; they were both in a straight line.

Q. Where was the yard which has been referred to by some of the witnesses?—A. Our yard was in the rear of the main building.

Q. Was there a yard also in the rear of the McDowell College building which was used as a military prison?—A. Yes, sir.

Q. Were those yards separated or otherwise?—A. They were separated. The wall of our buildings run all the way across, separating the two yards.

Q. How high was that wall?—A. It was the wall of the house. Part of it was three stories and a roof high.

Q. Do you mean to say the yard of the college building was separated from the yard connected with the McDowell building by a building?—A. By a building; yes, sir.

Q. Running clear across?—A. Running clear across the yard; yes, sir.

Q. How high was the McDowell Medical College?—A. I couldn't say positively. It was a very large building.

Q. Which was larger, your college building or the McDowell Medical College building?—A. They were both large buildings. They occupied the whole block. Our college was probably longer, and one end extended out across the whole lot, while the McDowell College was only a continuation of our building to the other block. It did not extend so far back.

Q. Was the school kept up the entire time while you were there?—A. Yes, sir.

Q. How many professors were engaged during that period?—A. I should safely say between ten and twenty, including all.

Q. Where did they reside?—A. In the college.

Q. Was the cooking done for them in the college?—A. Yes, sir.

Q. Was this a boarding school?—A. It was a boarding school.

Q. Were these four or five hundred pupils that were there when you went there, and the number that were there when you left, boarders and lodgers in the building?—A. A number of them were. It was both a boarding school and a day school.

Q. What proportion of the pupils boarded in this building?—A. Well, probably less than half.

Q. Were religious services held regularly in the chapel of which you have spoken?—A. Yes, sir.

Q. Do you know when the United States troops took possession of the McDowell Medical College for a military prison?—A. I do not exactly know the date.

Q. Was it before or after you became connected with the Christian Brothers' College?—A. Afterwards.

Q. Can you state about how long after?—A. It was some time in the winter of 1860; I couldn't say positively when. It ran into the beginning of the next year, perhaps.

Q. Are you quite certain it was the first winter after you became connected with the college?—A. Oh, yes.

Q. What officer had charge of that military prison?—A. That I could not say.

Q. Did you ever meet him?—A. I met him, but as I was not the superior I never made t my business to ascertain.

Q. Was the same officer in charge during the whole time you remained in the college?—A. I don't think he was. I think there was a change of regiments during that time. At the beginning they were very troublesome, very obnoxious, and I think they were changed. I think it was an Illinois regiment that was in the war, and was decimated. It seems to me there was a change.

Q. Do you know whether the McDowell Military College was taken possession of by a regular military order?—A. It seems to me they confiscated it. McDowell himself was a rebel and went down South. I couldn't say positively.

Q. Do you know how many prisoners of war were confined in the medical college?—A. Not accurately, but I know it was crowded to excess; probably two or three hundred, more or less.

Q. Do you know how many troops were in charge of the prison, or how many Federal troops stopped there?—A. I do not know exactly the number, but I could safely say there must have been between four and six hundred in and around the building.

Q. Then you think there were two or three times as many guards as there were prisoners?—A. I should think so. The prisoners were coming in nearly every day during the two years.

Q. How long was the McDowell College occupied for a military prison?—A. It was occupied until after I left there.

Q. It was still occupied at the time you left?—A. Yes, sir.

Q. The Christian Brothers' school was in full operation when you left there?—A. No, sir; it was not. It had diminished almost into insignificance.

Q. Was the same number of professors still employed?—A. The same number was still employed.

Q. Was the same list of studies still pursued?—A. Yes, sir.

Q. Did those classes recite in the usual class-rooms?—A. Yes, sir. There was a very small attendance, though, on each class. It was dangerous. The parents would not expose the children to go to school there, as the place was surrounded by the guards, and so many shots were fired in and around the building, on many occasions.

Q. What was the object of the firing of the shots?—A. To intimidate the prisoners.

Q. On account of the attempts of the prisoners to escape from the prison?—A. Sometimes they made their appearance at the windows; and some of them made their escape during the time I was there. One Saturday night a shot came just beneath the window in McDowell's yard, when I was there, as a man made his escape through the wall.

Q. You say a man came through the wall of the McDowell College, and was shot in the yard of the McDowell College?—A. Yes, sir. Some of them made their escape into our yard, and that necessitated close vigilance in guarding our yard and building and occupying the premises. Some of them made their escape on the roof of the house.

Q. How many soldiers were kept on guard in and around the building from the time when the McDowell College was occupied by the Federal troops up to the time when your connection with the Christian Brothers' College ceased?—A. During my stay there I should think there were somewhere between four and six hundred.

Q. Kept on guard?—A. Kept on guard.

Q. Kept outside of the building?—A. They occupied the inside of the building as well as the outside.

Q. How many people were stationed regularly on guard outside of the building?—A. I could not say positively, because there was a vacant lot opposite our college, and those who couldn't find accommodation in our college-rooms were stationed there—a number of them.

Q. Across the street?—A. Across the street.

Q. In front, or in the rear?—A. In front. All the houses on the block opposite the front of our house were taken possession of by the soldiers and occupied, so that there must have been a considerable number to occupy all those houses and to be camped on the vacant lots and to occupy our building. Safely I can say, I think, between four and six hundred.

Q. You cannot state what the regular guard was on the outside?—A. Not very well, because they guarded the whole block very closely.

Q. How many men were stationed in the yard of the college building?—A. I couldn't say positively. They were inside the yard and outside the yard, in the building and on the roof of the building.

Q. But you cannot state how many men were kept stationed in the yard when the guard was regularly organized and kept?—A. Not exactly. I should say probably between twenty and forty.

Q. Between twenty and forty were kept in your yard?—A. Less or more in the yard and occupying the house.

Q. I am speaking of the yard. Please confine yourself to that, and state, if you can, how many were there.—A. I could not say positively how many were inside the yard, but I know there were soldiers inside the yard and soldiers outside.

Q. You could not state the number inside the yard?—A. I could safely say there were probably between ten and twenty or thirty.

Q. Kept there regularly?—A. Kept there regularly.

Q. To watch the prisoners?—A. To watch the prisoners.

Q. That was besides those who occupied the buildings across the way, and who occupied the vacant lot across from your building?—A. Yes, sir.

Q. And those that were stationed in the McDowell College or prison?—A. Yes, sir.

Q. How many people were kept stationed on top of the college building regularly?—A. That I could not say.

Q. About how many?—A. There were probably one or two on the roof.

Q. Were they kept on the roof day and night?—A. I couldn't say that. They were there during the daytime anyway, and most probably during the night.

Q. How did they reach the roof?—A. On the inside by means of a step-ladder or some kind of ladder.

Q. Were the men who were stationed on the roof regularly changed during the day?—A. Yes, sir.

Q. Relieved by others who took their places?—A. Yes, sir.

Q. At what point in the school building were the guards stationed from the time the McDowell College was occupied by the Federal troops to the time when your connection with the Christian Brothers' College ceased?—A. They were on every floor of the portion close to the McDowell College; all the floors and the roof. One room they occupied and slept in.

Q. How many men were stationed in the basement, as a rule, when the guard was regularly set?—A. I don't know; probably there were three or four.

Q. Are you certain that any were stationed in the basement?—A. There must have been, because some of the prisoners made their escape through the sewer, I believe, and that necessitated very close vigilance.

Q. At what point was the guard stationed in the basement; was the guard stationed inside of the building, in the basement?—A. They were stationed wherever they could gain access. In this portion next to McDowell College there was no basement, but the first floor was on a level with the yard, and they were there guarding that.

Q. Where was the guard stationed on the first story next to McDowell College?—A. They were stationed in the yard and on the porch, and then there was an entrance leading out to the street, the principal entrance, and they were there.

Q. There was a passage-way through from the front to the rear?—A. Yes, sir; on the side next to McDowell College.

Q. Was that passage-way used for students?—A. They could go in and out that way, but generally they went out in the rear. It was the principal entrance for the parents, the professors, &c.

Q. The guard that was stationed below in the yard had access to this hall so as to pass along the wall next to McDowell College?—A. Yes, sir; they occupied that.

Q. It still continued to be used by the parents or anybody who came to the college through the front entrance?—A. Yes, sir.

Q. How many guards were stationed on the next floor above, and where were they stationed?—A. On the next floor there were two or three entries or corridors and they occupied them all. That was where the room was that they occupied and slept in.

Q. What room was that?—A. That was a room contiguous to the McDowell College and next to the chapel I described.

Q. How large a room was that?—A. That was a room probably 18 feet by 30 feet or more.

Q. What had it been used for before the soldiers occupied it?—A. For a community or study room by the professors.

Q. Was it a room where classes were heard?—A. Classes were heard there, too.

Q. Who slept there?—A. The soldiers.

Q. How many and what soldiers?—A. Those soldiers who were on guard.

Q. Was it the relief guard who slept there?—A. I suppose it was the relief guard; yes, sir.

Q. Was there any other room occupied for sleeping quarters for soldiers in that building while you were there?—A. Not any other but that.

Q. How many beds were in that room?—A. There was not a bed at all, but there were blankets and other things.

Q. The guard brought in their blankets and laid down there?—A. I suppose so.

Q. At the time they commenced to sleep there was that room used for the purposes of the school, or was it vacant on account of the reduction in the number of students?—A. It was not a students' class-room. It was a professors' class-room.

Q. Of how many did that guard consist that was stationed on that floor?—A. There were probably five or six that were on guard besides those who slept in the room.

Q. I understood you that the people who slept in the room were the soldiers who were to relieve the guard at a certain time?—A. Probably they were there, too.

Q. So the others laid down there, too, did they?—A. They were sleeping there.

Q. And when they go up and went upon guard did those who left the guard then go in there?—A. That I don't know. I know they were on guard, and others were sleeping. Probably they were reposing until their turn came to go on guard.

Q. You cannot state the number of men?—A. Not exactly, but they slept pretty close together.

Q. Were there any men on the next floor?—A. I could not say about the next story. The next story was the top dormitory and our private sleeping-room.

Q. So that there were no guards up there?—A. I couldn't say much about that.

Q. When these men were on guard, in what part of the building were they, the halls?—A. They were in the halls.

Q. During the time you were there there was no other room that was actually occupied for sleeping purposes by the soldiers that you know of?—A. No, sir. The fact is, that there was no other place, no other vacant room. There were small rooms next to the room occupied by the guard.

Q. All the other rooms were occupied by the professors and students, the class-rooms, music-rooms, chapel, &c., for the ordinary exercises of the school?—A. Yes, sir.

Q. Are you able to give the names of the officers in charge of the military prison or any of the subordinate officers?—A. No, sir; I am not, because I never made it my business to know, although I spoke familiarly to some of the soldiers. I never ascertained their names.

Q. In your affidavit did you speak of a hole being broken through the wall?—A. Yes, sir.

Q. Where was that?—A. There were several holes, I believe, made by the prisoners in endeavoring to escape from the military prison into our yard.

Q. How many holes were there and what were their dimensions?—A. I couldn't say how many. They were large enough for a man to make his escape through, in the wall between the two buildings.

Q. Into what room in the college did the holes open?—A. One of them opened into our music-room.

Q. How many holes were made?—A. I couldn't say exactly.

Q. Were they left open after they were made?—A. Oh, no; they were closed up immediately.

Q. The military authorities closed them up at once?—A. I suppose so, to prevent any other prisoners from making their escape. I understood from others that there were several holes.

Q. I would prefer not to have you state what you heard from others. Did you see any holes?—A. I saw a hole; yes, sir.

Q. More than one?—A. I don't recollect. I saw one, though.

Q. Where was that?—A. That was between the two buildings.

Q. Into what portion of the Christian Brothers' College did it open?—A. It opened into the music-room.

Q. What was the size of it?—A. I couldn't say; probably large enough for a man to make his escape.

Q. Was it closed up at once?—A. I think it was.

Q. Were you present when repairs were made to the building after the McDowell College was evacuated and surrendered?—A. No, sir; it was occupied until after I left there, during the whole of the war, I believe. To prove that the property was taken possession of I will state an instance where I had a narrow escape from losing my own life. They had the streets, entries, and all access to the college so closely guarded it was impossible for anybody to enter; so much so that coming home myself there was a German who seemed to be "three sheets in the wind," and he cried out, "Halt," and I didn't halt, because I thought he knew me sufficiently to let me pass, and he ran with a pistol to shoot me. On another occasion one of the domestics went out to close the shutters, a Frenchman, who couldn't speak English very well, and as the guard was walking with his back to him, coming back, he found the man trying to get in after closing the shutters, and he cried, "Halt," and the man didn't understand him, and he stabbed him. So, you see, our lives were in jeopardy. We had to get permits to go out and come in whenever necessity required it, and on several other occasions our lives were jeopardized. We could not go to the closets without being in danger of those men who were not the strictest in the world in their habits, firing at random; and many shots were fired in the building, in the yard, and surroundings.

Q. Who made the holes through the walls, that you spoke of?—A. The prisoners.
Q. In attempting to escape?—A. Yes, sir.
Q. The troops inside of the building did not make any holes?—A. Oh, no.

EXHIBIT B.

WASHINGTON, D. C., *April* 16, 1886.

JOHN J. LALOR sworn and examined.

By Senator DOLPH:

Question. What is your age?—Answer. A little over forty.
Q. What is your occupation?—A. At present I am in the Mint here, as translator.
Q. Where do you reside?—A. My residence is in Milwaukee, Wis.
Q. You are temporarily residing here now?—A. At present I am at the Clarend Hotel.
Q. Were you at any time connected with the Christian Brothers' College, at Sa Louis?—A. Yes, sir.
Q. Between what dates?—A. Between April 7, 1863, and July 5, 1865. It may h been April 11; I am not sure about that. I know it was the day of the battle of Shil that I reached there. It may have been the 13th. It was along there somewhere. was some great battle; I think it was Shiloh. In fact, I am not certain but what it 1862 when I went there. It was either 1862 or 1863, in April. I cannot say positiv whether I was there two or three years just now, but I can connect it in that way w the battle.
Senator JONES. If it was the battle of Shiloh it was 1862.
The WITNESS. Then I was there from 1862 to 1865.
Q. What was your position in the college at that time?—A. I was a professor.
Q. Professor of what?—A. Mathematics.
Q. How many students were in the college during the period you were connec with it?—A. Oh, there may have been three hundred or four hundred: I cannot say actly. There were certainly over two hundred; may be three hundred. There m have been four hundred.
Q. What was the average attendance?—A. That I couldn't say. I had nothing to with that. I had simply to teach my classes, and I don't know anything about it; I I should say the average attendance was a couple of hundred anyhow.
Q. How many professors were employed during that time?—A. There may have b between ten and fifteen, I should think, and there may have been more.
Q. Can you state who they were and what branches they taught?—A. There Brother Humphrey, there was Professor Keneally, there was Brother James—wel

Q. Can you state what was on the next floor above? If you can, please do so.—A. On the next floor above I believe there were dormitories. There may have been class-rooms. I believe there were dormitories, and the brothers themselves had their rooms there. Then there were rooms for the sick.

Q. You are not able to specify with precision the number of rooms on each floor or the dimensions?—A. The rooms were very large, generally. Dormitories are always large, but the class-rooms were quite large also. Although the building was large there were comparatively few rooms in it.

Q. Do you know when the building was erected?—A. I do not, sir. I have been informed it was erected some time in the year 1851 or 1852.

Q. Have you any personal knowledge as to the cost of the building—A. No, sir.

Q. What was it used for?—A. It was used as an educational institution, a college, and also as a residence for the professors, of course.

Q. Do I understand you to say you are not able to state what length of time you were there?—A. I first thought I went there in 1863, but come to think of it it must have been 1862, and I was there from 1862 to 1865. I went there at the date of the battle of Shiloh, because I can connect it in that way. The day before I reached there, while I was on my way, the battle of Shiloh was fought. I know that for certain.

Q. You are not able to describe the building, either as to the dimensions on the ground or otherwise, any more accurately than you have done?—A. Well, it was what I would call a large building. It may have been 100 feet or 200 feet long for all I know. I have no idea of measurements as far as that goes; but you would call it a large building anywhere.

Q. Did you know the McDowell Medical College?—A. Yes, sir; it was next door to it.

Q. How was it situated with reference to this building of the Christian Brothers?—A. The building of the Christian Brothers was in the form of an L, and one side of the L was adjacent to the McDowell College; that is, they were right together. Here [indicating] was McDowell's College, and here [indicating] was that part of the L and the other part went in this direction. [Indicating]. Supposing here [indicating] was McDowell's College. One wing of the Christian Brothers' College was just adjacent to it, whereas the other wing went along in this direction [indicating]; that is, there was a bare wall separating the two.

Q. What do you mean by a bare wall; the wall of the building?—A. That is all.

Q. Or a yard wall?—A. Just a wall.

Q. Between the buildings?—A. I don't know. I can't come down to that. I know there was only a wall between the two.

Q. What was the McDowell Medical College building occupied and used for when you went there?—A. When I went there it was used for a military prison.

Q. Who was in charge of it?—A. I do not know.

Q. How many men were in custody there?—A. There must have been a large number. That is a question I could not answer; but judging from what I saw I should say there may have been five or six hundred at times, or may be a thousand or fifteen hundred.

Q. Prisoners?—A. Yes, sir; in custody in McDowell's College at that time. That is my impression, of course. I never was inside and kept no statistics of that sort.

Q. How long was that building occupied as a prison?—A. I don't know when it began. When I went there my recollection is it was then occupied as a prison and it continued to be occupied until the close of the war, if not afterward.

Q. Did you remain there until after the close of the war?—A. Yes, sir; I remained there until July 5, 1865.

Q. Was it still occupied as a prison when you left there?—A. I am not certain about that. I can't recollect. I don't recollect its ever ceasing to be a prison.

Q. Were you engaged in teaching the whole time you were there?—A. Yes, sir; all the time.

Q. Was there a full corps of professors and teachers kept there during that time?—A. Yes, sir.

Q. And a full list of studies pursued?—A. Yes, sir.

Q. How did the number of pupils at the time you went there correspond with the number of pupils in attendance at the time you left, if you are able to state?—A. My recollection is that it had diminished.

Q. Do you know how long this McDowell College had been occupied as a prison before you went there?—A. No, sir; I do not.

Q. What is your recollection as to how the number of students at the time you went there compared with the number at the time you left?—A. I have only the general impression that it diminished; that it kept diminishing right through. It had fallen off considerably, I know, in 1865; it had fallen off very largely, in fact, so much that they began to fear the college was going to pieces.

Q. You do not know who was in charge of the prison, or who was superintendent of the prison, or the names of any of his subordinates?—A. I do not. I never had anything to do with them at all.

Q. Did you ever meet any of them?—A. To see them; not to have any intercourse with them.

Q. Do you know how many men were employed in guarding the prison?—A. All that I can say is that the street in front of the prison was swarming with soldiers; swarming with them. How many were guarding it, I don't know; but to look out from one of the windows of the college you would see nothing but soldiers in the street; so much so that scarcely anybody else ever passed through the street.

Q. Can you state where the guards of the prison were stationed, when they were stationed, when they were relieved, or anything about the regulations under which they were stationed and relieved?—A. My recollection is that the door of the college was open day and night, and the provost-marshal came in with his guards whenever he wished; sometimes six, sometimes ten, and sometimes twelve.

Q. What do you mean by the door of the college being open day and night, do you mean it stood open?—A. To admit the soldiers.

Q. Or was it simply not locked?—A. Oh, no; it was to admit the guard.

Q. Do you mean the door stood open all the while, or that it was unlocked and that they entered when they chose without restriction?—A. I don't know about that. It was open under military command.

Q. Where did the students enter and leave the college?—A. They entered by a gateway.

Q. Where was that gateway?—A. That gateway opened into the yard. There was a large yard connected with it and the students entered by that yard.

Q. That was the way they were accustomed to enter, was it not?—A. I don't know whether it was previous to that or not, because I was not there at the beginning.

Q. Were there stairs leading from the yard to the recitation-rooms and dormitories?—A. Oh, yes, sir; certainly.

Q. The front door connected with the parlor and the residence portion of the building more particularly, did it not?—A. It connected with the college also. They were all together.

Q. But that was used for visitors rather than for students, as a rule, was it not?—A. My recollection is not good on that point. I can't tell whether the scholars came through that door or not. I don't think they did while I was there. I am not certain about that.

Q. From that front door was there a hall that ran clear along through the building?—A. From the front door there was a hall that led to a veranda that went all around the building. That veranda communicated with the different rooms; that is, there were openings onto the veranda from the different rooms all around the building. They opened into the class-room too. Entering the hall door, after passing the hall you landed on a veranda which extended the whole length of the building, both members of the L.

Q. Was there a yard in the rear of the McDowell College?—A. There was; yes, sir; a very large room.

Q. Was there a yard in the rear of the Christian Brothers' College?—A. I don't know whether you would call it in the rear. The two L's of the Christian Brothers' College embraced the yard.

Q. But the yard of the McDowell Medical College and the yard of the Christian Brothers' College did not connect, did they?—A. They were separated by a wall.

Q. That is the question I asked you some time ago, whether there was a wall simply serving the purpose of a fence?—A. Oh, no; it was the whole building.

Q. A wing of the Christain Brothers' College building extended clear back to the back part of the yard of the McDowell building, did it?—A. Yes, sir.

Q. So that the yards were separated by a building?—A. The yards were separated by a building, but the houses proper were only separated by the wall. The yards were separated by a building, but there was only a wall between the McDowell yard and the yard of the Christian Brothers' College.

By Senator JONES:

Q. I would like to ask you a question right there. Back from the street, going clear through the Christian Brothers' College, was there a yard or not? I believe I understood you to say there was no yard back of the building.—A. Let me hear the question again.

Q. Suppose this [indicating] was McDowell's College and this [indicating] was the Christian Brothers' College. Where would the yard be?—A. The yard of the Christian Brothers' College was here. [Indicating.]

Q. It was a court in the L?—A. It was a court.

Q. It did not extend any further back?—A. No; it was just a court. It should more properly be called a court, I should say.

By Senator DOLPH:

Q. Was this a boarding school?—A. It was both a boarding school and a day school.

Q. About what number of pupils boarded in the school building while you were there?—A. That I can hardly answer, but I should say there were over eighty or a hundred; there may have been more. I can't recollect the number. The majority of them were day scholars, I believe.

Q. Were there any changes made in the recitation-rooms while you were there on account of the proximity of the prison or the presence of the guards? Did you abandon any recitation-rooms?—A. I recollect of none.

Q. That is to say, the operations of the school continued with the use of the same rooms as when you first went there?—A. I don't recollect of any changes particularly; no.

Q. Were any rooms surrendered up entirely for use by the guards?—A. Yes, sir; along that line there was one room, or two I believe, on that L adjacent to the college.

Q. One or two?—A. I recollect only one.

Q. What had that room been used for?—A. I think it had been used as a room for chemical experiments.

Q. Was anything moved out of it?—A. I know it was occupied by the military.

Q. Was anything moved out of it before the military commenced to occupy it?—A. I don't recollect anything being moved out of it when I was there.

Q. It was a vacant room when you went there?—A. Not when I went there, but when I left there it was.

Q. What was in the room when you went there?—A. Chemical apparatus.

Q. What was done with that chemical apparatus?—A. I don't recollect now where it was taken to.

Q. How long after you went there before it was taken out?—A. I don't remember.

Q. You are not able to state whether it was taken out the first, second, or third year?—A. No, sir; I don't remember anything about it at all.

Q. What was put in there by the soldiers—anything?—A. Nothing that I remember. My recollection is it was practically vacant.

Q. It was practically vacant during the whole time you were there after the apparatus was moved out?—A. I think there was a time when there was apparatus in it. In fact I know there was, because I made experiments there myself.

Q. Are you able to state when it was you made experiments there?—A. No, sir; I am not. I cannot state whether it was the first week or the last week. I know I made experiments there.

Q. During the balance of the time you think it was vacant, practically?—A. Yes, sir.

Q. How was it occupied by soldiers?—A. The soldiers were stationed along that part of the L so that it became impracticable to use the room.

Q. Did they occupy the room at all?—A. They had holes made, I think, between the wall of McDowell's College and this room, and prisoners had escaped through it, or tried to escape.

Q. Did the soldiers occupy this room at all?—A. Yes, sir.

Q. How did they occupy it?—A. They went in and out of it just as they pleased, and they slept on the floor at night in it.

Q. Were there any beds in it?—A. No; the soldiers had no beds or cots in the college that I can recollect.

Q. How many soldiers slept on the floor?—A. I have seen as many as twenty sleeping along the corridor and some in that room.

Q. Did you see a hole through the wall in that room?—A. Yes, sir.

Q. Who put it there?—A. The prisoners cut it through.

Q. Was it closed up right away?—A. It was closed up right away and opened again. They kept closing them up and then the prisoners would burrow through again. That thing kept on a good deal.

By Senator JONES:

Q. Were the holes all made by the prisoners, or by the soldiers?—A. Oh, the prisoners made the holes.

By Senator DOLPH:

Q. Were there ordinarily twenty soldiers kept along in that corridor?—A. I can't recollect how it was ordinarily, but I can recollect that number on various times, especially in the morning, getting up early. They were lying there like sandwiches.

Q. Were they kept there all day and all night?—A. I can recollect their laying there all day. I don't know that they laid there all night. I know I found them there as early in the morning as 5 o'clock.

Q. How late would these men stay there that you saw there at 5 o'clock?—A. Oh, they would be up pretty early.

Q. Did they leave the building when they got up?—A. Yes, sir; they would leave the building. I don't know whether those soldiers staid in the building or not. The soldiers came in generally with the provost-marshal.

Q. When did he come in?—A. He came in at any hour of the day. He would bring a batch of soldiers with him and he would bring others out, take them away.

Q. That was the guard?—A. Yes, sir.

Q. And he would bring in certain soldiers and take away others?—A. Yes, sir.

Q. Relieve the guard?—A. Yes, sir; that went on all the time.

Q. It went on at stated periods, did it not?—A. I don't know.

Q. At stated times during the day?—A. I don't know whether it was regular or not.

Q. Was that guard kept up during the day?—A. It was kept up day and night.

Q. What other points in the building, if any, were soldiers kept stationed at?—A. I don't recollect any others.

Q. You only recollect their being along this hall?—A. That is all. I paid no attention particularly. It got to be so much a matter of fact that it was looked upon like anything else, and I paid no attention to it whatever. But I can recollect that distinctly because I had to go through that part of the building right along to get to my class-room. If they were stationed anywhere else I know nothing about it.

Q. Could you tell about how many soldiers were kept on guard at any time?—A. No; I could not tell that.

Q. Could you tell whether the same number was kept on at all times, or whether there was a larger guard on some occasions than there was on others?—A. No, sir; I couldn't tell. I know generally that that part of the building was used continually by the troops. How many were there at a time, I couldn't say. All I can tell you about that is what I have told you already, that the provost-marshal would come in with six or seven or ten or twelve at a time and march out again.

Q. Do you know the name of the provost-marshal?—A. I do not. I call him the provost-marshal. Whether he was provost-marshal or not I don't know.

Q. He was the man who relieved the guard?—A. Yes, sir.

By Senator JONES:

Q. Was there any obstruction to the ingress or egress of students or others into and out of the college whenever they saw fit?—A. Not that I know of; that is, if it existed I didn't know of it.

By Senator DOLPH:

Q. There was no objection to your passing through when you wanted to go to your class-room?—A. No; except upon one occasion when a soldier wanted to shoot me.

Q. Was that in the night or daytime?—A. That was in the daytime. He was making a hole in the door with his bayonet, and I asked him what he was doing that for, and he put his bayonet right up to my stomach and put his finger on the trigger and told me if I didn't get out of that he would shoot me. That was the only obstruction I ever met with.

Q. You continued to pass through, I suppose?—A. Oh, yes. They didn't interfere with the professors in any way that I know of, except little things like that.

Q. Or with the operations of the school any more than was necessary?—A. No more than this: The number of scholars fell off because people did not want to send their children there to school.

Q. Do you know of any damage that the soldiers did to the building while you were there?—A. Well, little things like that they did, wherever they were.

Q. They marred the door, as you mentioned?—A. Yes, sir; and they would stick their bayonets into every place.

By Senator JONES:

Q. What part of the building, if any, did the troops take possession of to the exclusion of the professors or managers of the school?—A. I don't know that they took any part of it except this one room that I mentioned.

By Senator DOLPH:

Q. And that was virtually a vacant room?—A. It was made vacant by the soldiers.

By Senator JONES:

Q. They took entire and absolute control of that?—A. Yes, sir. The fact is that the

whole building was practically under control of the military. They came into the dormitories, and they came into the sleeping-rooms whenever they wished, no doubt honestly, on the pretense that they were looking for escaped prisoners. They would come into the rooms where the professors slept, and they would go under their beds with their bayonets and feel all around to see if there was not somebody hid under the bed. They did that whenever they felt like it.

By Senator DOLPH:

Q. Did the prisioners escape occasionally?—A. Yes, sir.

Q. I suppose the soldiers went into other adjacent houses wherever they thought the prisoners were?—A. There was none near the prison that they could get access to. I don't think there was any other place where they could have done it.

Q. It was when the soldiers were in search of escaped prisoners that they would do that way?—A. Yes, sir; at least, they did it very frequently, and they very seldom found an escaped prisoner. They shot one or two that tried to escape.

Q. Will you state the damage, during the whole three years that you were there, that you know was actually done by the soldiers or the guard?—A. I couldn't say anything about that.

Q. Was there anything more than this door that one man jabbed his bayonet into?—A. I paid no attention to it. I know generally that they demolished everything around where they were; that is, they marred it, &c. To what extent it happened I don't know. I paid no attention to it.

By Senator JONES:

Q. Was that done by order of the officers or the individual depredations of soldiers?—A. The individual depredations of soldiers, of course.

Q. The officers did not order anything of that kind?—A. No, sir.

By Senator DOLPH:

Q. Where was this damage done; in the hall or along where this room was that they occupied?—A. Wherever the soldiers went they did damage. There is no doubt about that.

Q. What damage did they do?—A. Well, they just generally marred everything they came near wherever they were stationed.

Q. What did they mar except this door?—A. They marred the walls.

Q. What part of the building?—A. Especially where they were stationed along that smaller end of the L.

Q. In any other part of the building?—A. No, I think not; not that I know of.

Q. What kind of walls were those; plastered walls?—A. Plastered walls.

Q. What was the finish—paper?—A. No; I should say it was lime.

Q. Was it just ordinary hard finish or was it rough brown finish?—A. Something like this room here.

Q. Was it painted or frescoed?—A. No, sir.

Q. It was simply plain; no decoration at all?—A. No decoration; plain.

Q. What was the door made of; ordinary teal or pine?—A. That I cannot tell.

By Senator JONES:

Q. You can give no idea of the relative number of pupils at the close of your term there compared with the number when you went there?—A. I can only give you what I recollect: That when I left there in 1865 the general feeling among the professors and among the students was that the college would go under. It had been diminishing in numbers steadily. That is my recollection.

Q. But you cannot say how much it had diminished from the time you went there?—A. No. I know it had been losing.

Q. You do not know whether the loss was twenty or fifty?—A. No. I never investigated it. I never paid any attention to the number. It was general report I am speaking of; that is, there was a feeling among the teachers that the number was diminishing.

Q. What was the condition of the building generally when you left there as compared with what it was when you went there—the whole building, taking it altogether, basement, dormitories, roof, rooms, halls, and corridors, all put together?—A. I don't think there was any very great difference except where the soldiers were stationed. They damaged it in that way. If there was any difference I didn't notice it. If it came, it came so gradually I paid no attention to it.

Q. And that was in that room which you say the soldiers occupied?—A. I don't know that the damage was so very great, at least I have no recollection of its being so.

C.

WAR DEPARTMENT, *Washington City, April* 28, 1886.

SIR: In reply to your telegraphic request of the 21st instant that the Committee on Claims be furnished with such information as the Department may possess relative to Senate bill No. 381, Forty-ninth Congress, first session, authorizing the payment to the Christian Brothers' College of Saint Louis, Mo., of $35,000 in compensation for the use and occupation of the college buildings and lands by United States troops during the late war, I have the honor to advise you that a search has been made and that the records of the Department fail to afford any information bearing upon the subject-matter of this bill.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. AUSTIN F. PIKE,
Chairman Committee on Claims, United States Senate.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1059.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. FAIR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1576.]

The Committee on Claims, to whom was referred the bill (S. 1576) for the relief of Col. James C. Duane, having considered the same, submit the following report:

The committee adopt House Report No. 2605, Forty-eighth Congress, second session, and recommend the passage of the accompanying bill. Said report is as follows:

The petitioner seeks reimbursement for a loss of $648, being the amount paid by him to the Government on account of robberies and forgeries committed by one Henry J. Buete, a clerk in the office of the engineer of the third light-house district on Staten Island in 1879.

Buete was appointed clerk July 10, 1874, by the Secretary of the Treasury. Colonel Duane was detailed as engineer of that district in 1878, and found Buete there as a clerk when he took charge of the office.

In January, 1882, the Light-House Board of the Treasury Department made a careful investigation of the circumstances attending the robbery and forgeries whereby Colonel Duane suffered the loss aforesaid.

Your committee find the investigation to have been thorough and exhaustive, and we adopt said report as a fair and full statement of the facts in the case. See also papers appended marked 1, 2, 3, and 4.

We recommend the passage of the bill for his relief.

1.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, January 18, 1882.

SIR: The Committee on Finance, to which were referred, by your letter of the 9th instant, the papers relating "to the relief of Lieut. Col. J. C. Duane, U. S. A., engineer third light-house district, for loss sustained by robbery, forgeries, &c., committed by one Henry J. Buete, a clerk in his office," has the honor to report as follows, viz:

On the 12th instant the chairman of the committee, accompanied by the engineer secretary of the Board, proceeded to the office of the engineer of the third light-house district on Staten Island, and spent the greater part of the next day in examining the papers on file there. These were comparatively few in number, and the case a very plain one.

The result of an examination of the vouchers, check-books, &c., of Lieut. Col. J. C. Duane, U. S. A., engineer second and third districts, for the period of six months, from January to June, 1879, so far as the same were affected by the forgeries, &c., of Henry

J. Buete, a clerk in his office, who robbed the safe thereof and fled on the 23d day of June, 1879, is as follows:

The checks which were forged by raising the sums for which they were drawn, were—

Payee.	Date.	No.	Amounts for which drawn.	Amounts to which raised.
	1879.			
C. T. Reynolds & Co	Jan. 6	13239	$8 00	$80 00
H. J. Buete	Jan. 25	13305	6 00	60 00
J. Cairus	Jan. 31	13314	6 66	60 66
O. Van Every	Feb. 14	13398	7 05	70 05
S. N. Havens	Mar. 7	11682	7 50	70 50
A. Huebner	Mar. 29	13411	6 02	60 02
E. Glover	Apr. 8	13506	6 90	60 90
H. J. Buete	Apr. 22	13529	6 00	60 00
James McCann	Apr. 30	13624	6 00	60 00
Martin Heger	May 15	13662	6 00	60 00
Henry J. Buete	May 27	13685	8 00	80 00
W. C. Duyckinck	June 5	13797	8 00	80 00
Charles Kohler	June 16	13839	9 75	90 75

These checks were drawn on the assistant treasurer of the United States at New York, payable to the *order* of the payees, in payment of materials or services furnished by them respectively.

In the cases named, Buete went to the parties to whose order the checks were drawn and requested that the checks might be given to him, he handing the amount in money to the payee in each case. That is, Buete took the vouchers for signature with the check for the *correct* amount and when the vouchers had been signed, and without the knowledge of Colonel Duane, would offer to cash the check. Very naturally, the parties were glad of the offer, and would indorse the check and return it to Buete, who handed the amount in money to the payee. Then when the check was once in his possession, with the genuine indorsement of the payee, the forgery was committed by raising the check, altering the vouchers and the subtractions on the check-book to correspond. The check-stubs themselves were not changed. The payees of these checks were engaged in business either in New York city or Staten Island. The usual way of detecting any forgery of checks, such as was here practiced by Buete, is the examination of the monthly statement of checks presented and paid at the subtreasury at New York, which is furnished to each disbursing officer during each month, the account being brought up to the close or last day of the preceding month. The comparison of these statements was invariably made by Buete and the chief clerk of the office, one reading from the statement, whilst the other checked on the check-book stub, or *vice versa*. And it is just here that the circumstances favored Buete in avoiding detection of his crime. If he were calling from the subtreasury statement, he was prepared with the number and amount of any check he had changed during the previous month and called the unchanged *stub amount*, instead of the raised sum which was shown in the statement. and thus the chief clerk checked the *stub* amounts as corresponding with the subtreasury statement, and everything was considered right. If the chief clerk read from the subtreasury statement, Buete, who was checking on the check-book stub, "tallied" all right, of course equally prepared with the knowledge of the number and amount of any check he had forged the amount of contained in that statement. Thus this system of forgery might go on for an indefinite period without detection so long as the guilty one was a party to the comparison of the statements.

Upon these comparisons being completed from month to month, the assistant treasurer at New York was advised of the same and that his statement was correct, and, so far as his office was concerned, nothing further did or could occur to rest any suspicion of dishonesty or of tampering with any cheek.

The amount of forgery committed by Buete had to be accounted for in some way in the disbursing accounts which are rendered quarterly to the Treasury Department at Washington. Immediately upon the discovery of the forgeries named, therefore, an investigation of the accounts was made, and the result disclosed a system of alterations, &c., of vouchers exactly corresponding in amount to the net sum of the dishonest transactions for the period covered by the accounts. These were as follows:

In the first quarter of 1879 the net amount of forgeries was $360. To cover this amount Buete tampered with the following vouchers: Appropriation, repairs, &c., of light-houses; voucher 58; pay-roll of laborers, &c. This voucher was increased in amount $30 by changing the time of work of one man from six to sixteen days, at $3

per day, and the amount of his pay from $18 to $48, the total or footing of the roll or voucher being changed from $346.58 to $376.58.

By the same process, vouchers 74, 126, and 191 of the same appropriation were raised $189, and voucher 4, expenses buoyage, $54.

Voucher 61, repairs, &c., light-houses, was for lumber, &c., and properly drawn for $35.14. This voucher was altered by adding more materials and increasing the amount to $122.14.

These alterations of the accounts, all made *after* they had been certified by Colonel Duane, amounted, as will be seen from the changes, to $360, the exact amount of the forgeries for that period. In the second quarter of 1879 the amount of the forgeries was $441. To cover these the following vouchers of the second quarter's accounts were altered: Voucher 13, supplies of light-houses (pay-roll of laborers, &c.), the pay of three men changed in an excess of $81; and voucher 33, repairs, &c., of light-houses—which was properly drawn for brass, &c., for $93.28—destroyed, and a fraudulent voucher substituted in the sum of $453.28, a difference of $360, or total change of $441.

The changes in the vouchers were made *after* they were finally inspected and signed by General Duane, being taken for the purpose from the safe to which Buete had access.

In like manner, after the abstracts and accounts current had been signed by General Duane, alterations were made to correspond with the robbery which was to be covered.

In regard to the first discovery of the thefts and Buete's personal standing, habits, presence, and discharge of duty at the office, and his long service in the Government, a full report was submitted to the Light-House Board, and is now upon the files of that office.

The sum for which Colonel Duane is held in consequence of the above forgeries is $648. This differs from the amount of forged checks in $153, being the net sum of the forged amounts of the checks Nos. 13797 and 13839, which were recovered by the depository officer at New York from the indorsers, and therefore lessened the loss to that extent.

Even the most superficial examination of the case, as stated in the foregoing, will reveal the great skill with which Buete conducted his operations, and the improbability of their early detection.

(1) He was a trusted employé of nearly ten years' standing, and was remarkable for his promptness and close attention to duty. Colonel Duane found him in the office when he took charge.

(2) His special duty was the charge of the accounts, and filling up checks for the payment of indebtedness—a duty necessarily confided to a clerk.

(3) Colonel Duane, by inspecting vouchers before certifying to and paying them, and ascertaining that the checks were properly drawn for the correct amount, and payable to the order of the payee, and not signing them until satisfied that these conditions were all fulfilled, took apparently proper precautions to prevent fraud.

(4) Buete's somewhat unusual promptitude in attendance at the office and attention to duty whilst there is now seen to be due to his fear that some comparison of papers, or other examination would take place if he were absent, in which case detection was almost sure.

(5) Buete was careful not to alter the check-stubs, but in carrying forward balances from page to page always deducted the amount of the fraudulent check. Thus the balance as shown by the check-book always corresponded with the statement of the assistant treasurer.

(6) Buete always succeeded in getting the genuine indorsement of the payee upon each check raised by him.

(7) He confined his operation to three checks, or less, per month, and was thus able to carry them in his mind during the periodical comparisons between the assistant treasurer's statement and the check-book.

As soon as the theft of private funds from the office safe was discovered and traced to Buete, the papers in the office were overhauled and the forgeries in question revealed. Colonel Duane's accounts were promptly corrected by him (some of the vouchers which had already been forwarded to the Treasury Department being withdrawn for the purpose), and he assumed and made good the whole amount of the deficit in his accounts, and as they stand now the Government is not a loser because of them to the amount of one cent. It may be added that the auditing officers of the Treasury Department never could have discovered the fraud, for, on their face, the papers were all right.

Colonel Duane now seeks relief to the amount of $648, which does not include any of the private funds stolen from the office safe, but represents the amount of his checks raised by Buete, less the amount of two checks paid, but afterwards recovered by the assistant treasurer at New York; and your committee is of opinion that under the circumstances this relief should be granted.

The chairman of the committee desires to add for himself that he consulted the president of one of the largest banks in New York City in regard to the case, who said that Buete's operations were so skillful that they would have been successful against any bank.

The papers referred to the committee are herewith returned.

All of which is respectfully submitted.

O. M. POE,
Chairman of the Committee on Finance.

The CHAIRMAN OF THE LIGHT-HOUSE BOARD.

To the honorable the Congress of the United States:

The undersigned would respectfully bring to your notice, through the Light-House Board and the Treasury Department, the matter of a loss of $648, sustained by him by reason of the robberies and forgeries committed by one Henry J. Buete, a clerk in his office; and, inasmuch as no negligence or fault attaches to him in the premises, he earnestly asks that an act be passed by your honorable body for his relief in the sum named.

A full report of the circumstances of the forgeries committed by the clerk named and of his flight has been made to the Department, and a copy is also submitted with this petition.

A bill (H. R. 6231, Forty-sixth Congress, second session) was introduced during the last Congress for the relief here asked, but failed to be reached before the adjournment. The forgeries, robberies, and flight are briefly as follows:

On the 23d of June, 1879, the safe in the office of the petitioner at Tompkinsville was found to have been robbed of money belonging to the petitioner amounting to two or three hundred dollars. It was soon afterwards ascertained that the robbery was committed by Henry J. Buete, one of his clerks, and that this clerk had fled from justice. The investigation of the account-books and check-stubs which followed upon the discovery of the robbery disclosed the fact that the clerk had been committing a system of forgery of the official checks of the petitioner, whereby he sustained the loss of the sum first named, $648. The manner of the forgeries is thus briefly stated: Buete, who for several years had drawn all official checks for signature, would draw a check in payment of some proper voucher for six, seven, eight, or nine dollars, and when the petitioner had signed such check and it had been paid to the party entitled thereto, would manage to get the check back from the payee by cashing its face. Once then in his possession the forgery would be perpetrated by raising the amount to sixty, seventy, eighty, or ninety dollars, which he could readily accomplish, being the same person who had drawn the check for the legitimate sum. This system of forgery was kept up for some time, one and sometimes two checks being raised in a month. The subsequent avoidance of detection in the examination of the disbursing statements and in the preparation of the petitioner's accounts were easily accomplished, and is fully explained in the statement accompanying.

The circumstances fully demonstrate that the forgeries were in no sense due to want of personal supervision of petitioner's accounts, and that therefore he is entitled to the relief asked in this petition.

Respectfully submitted.

J. C. DUANE,
Lieutenant-Colonel Engineers, Bvt. Brig. Gen. U. S. Army,
Engineer Third Light-House District.

2.

TREASURY DEPARTMENT,
February 8, 1882.

SIR: I have the honor to inclose herewith a copy of a letter of the Light-House Board, dated the 3d instant, transmitting a petition of Lieut. Col. J. C. Duane, U. S. Army, engineer of the third light-house district, for relief in the matter of the loss of $648, sustained by him in consequence of robberies and forgeries committed by Henry J. Buete, a clerk in his office, and requesting that favorable action be had on the bill now pending before Congress for the relief of Colonel Duane, being H. R. bill No. 1172.

I have accordingly respectfully to transmit this communication and its inclosures, so that action may be taken by Congress in this matter, if it appears wise to do so, agreeably to the desire of the Light-House Board.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Hon. J. W. KEIFER, Speaker House of Representatives.

3.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 3, 1882.

SIR: Inclosed the Light-House Board has the honor to transmit a petition to Congress of Lieut. Col. J. C. Duane, Corps of Engineers, U. S. A., engineer of the third light-house district, for relief in the matter of the loss of $648 sustained by him in consequence of robberies and forgeries committed by one Henry J. Buete, a clerk in his office.

There is also inclosed a copy of the report of the committee on finance of the Board, to which the papers in this case were referred, in which the opinion is expressed that, under the circumstances, the relief asked for should be granted.

The Board at its session on January 31 adopted this report, and ordered that recommendation be made through the proper channel that Congress take favorable action on the bill now pending for the relief of Lieut. Col. J. C. Duane, being H. R. bill No. 1172.

In compliance with this order, I have the honor to recommend that Congress be asked to favorably consider the bill referred to for the relief of Colonel Duane.

Very respectfully,

JOHN RODGERS,
Rear-Admiral, U. S. N., Chairman.

The SECRETARY OF THE TREASURY.

4.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
Washington, July 6, 1882.

H. J. Buete was appointed clerk in the office of the engineer of the third light-house district July 10, 1874, by the Secretary of the Treasury.

Lieut Col. J. C. Duane was detailed as engineer of the third light-house district in 1878, and found Buete there when he took charge.

From the records of the United States Light-House Board.

R. H. WYMAN,
Rear Admiral United States Navy, Chairman.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1060.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SPOONER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1651.]

The Committee on Claims to whom was referred the bill (S. 1651) "authorizing the Secretary of the Treasury to make final adjustment of claims of certain foreign steamship companies arising from the illegal exaction of tonnage dues," have had the same under consideration and respectfully report as follows:

This claim has been considered and favorably reported by the Committee on Foreign Relations of the House of Representatives of the Forty-sixth and Forty-eighth Congresses. It has likewise been favorably reported by the Committee on Claims of the House of Representatives at the present session.

The report of the Committee on Foreign Affairs of the Forty-eighth Congress, embodying the report of the same committee of the Forty-sixth Congress, is able and exhaustive, and is adopted, as follows:

[House Report No. 1568, Forty-eighth Congress, first session.]

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 1062) authorizing the Secretary of the Treasury to make final adjustment of claims of certain foreign steamship companies arising from the illegal exaction of tonnage duties, respectfully report:

The matters arising herein were thoroughly and exhaustively considered by this committee in the Forty-sixth Congress, and a very able report made thereon, by Hon. Mr. Rice, then and now a member of the committee, was favorably considered by the committee.

The ninth article of the treaty of 1827 between the United States and the Hanseatic Republic is as follows:

"ART. 9. The contracting parties, desiring to live in peace and harmony with all the other nations of the earth by mens of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations in respect of commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional."

This treaty is still in force. (See letter Secretary State in H. Rep. No. 124, part 2, page 29, second session Forty-fifth Congress.)

Subsequently a treaty was ratified with Belgium, July 18, 1858, article 4 of which is in the following words:

"Steam-vessels of the United States and Belgium engaged in regular navigation between the United States and Belgium shall be exempt in both countries from the payment of duties of *tonnage*, *anchorage*, buoys and light-houses."

This treaty was abrogated July 1, 1875. (See notes to Treaties and Conventions concluded since May 1, 1870, p. 1261.)

From this it will appear that the United States agreed not to grant any particular favor to other nations in respect of commerce and navigation which shold not immediately become common to the Hanseatic Republics.

By the fourth article of the treaty of July 17, 1858, with Belgium, quoted above, the United States directly stipulated that steam-vessels engaged in regular navigation between them and Belgium should be exempt from the payment of duties on tonnnage, anchorage, buoys, and light-house charges. This favor having been extended to Belgium, it immediately attached, under the foregoing ninth article of the Hanseatic treaty, to the steamships of the lines above referred to, both plying between the ports of Bremen and Hamburg (Hanseatic Republics) and ports of the United States. It is manifest that after July 17, 1858, the lines of steamships from Belgium and the Hanseatic Republics were upon precisely the same footing.

For thirty years anterior to July, 1862, tonnage duties were not levied or collected by the United States on vessels of foreign countries. . The necessities of the Government at this time, however, compelled the imposition of tonnage duties, when an act was passed July 14, 1862, entitled "An act increasing temporarily the duties on imports, and for other purposes," providing—

"That upon all ships, vessels, or steamers, which, after the 31st day of December, 1862, shall be entered at any custom-house in the United States, whether ships or vessels of the United States or belonging wholly or in part to subjects of foreign powers, there shall be paid a tax or tonnage duty of 10 cents per ton of the measurement of said vessel in addition to any tonnage duty now imposed by law. * * * *Provided*, That nothing in this act contained shall be deemed in any wise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels."

The act of March 3, 1865, amended the foregoing act by inserting *thirty* cents per ton in lieu of "ten" cents.

. It was the manifest duty of the Secretary of the Treasury, upon the passage of the above law and before proceeding to administer it, to have caused a careful examination of the treaties with various foreign nations to learn what countries, if any, were exempt from the imposition of such duties.

The Secretary of the Treasury, however, immediately on the passage of the act of July 14, 1862, issued his instructions, in the form of circulars, to the collectors of the ports of New York, Baltimore, and New Orleans, making no exception of the vessels so exempted, but required the tonnage-tax to be levied and collected indiscriminately upon these vessels, notwithstanding the Attorney-General (Opinions, vol. 10, p. 481) had advised the Secretary of certain exemptions from the operation of said act by virtue of certain treaties.

The North German Lloyd Steamship Company accordingly paid, at the ports of New York, Baltimore, and New Orleans, as tonnage duties on vessels of their line thus exempted, the sum of $130,800.09, and the Hamburg-American Packet Company also paid the sum of $130,119, covering the period in both cases from December 31, 1862, to July 1, 1875, as appears by the books of the Treasury Department and by House Ex. Doc. No. 76, third session Forty-fifth Congress.

No laches can be imputed to the claimants in not having made prompt demand upon the United States for restitution.

The tax was first paid in 1863. Until 1867 the claimants had no knowledge that their lines were exempt. They were naturally misled by the Secretary of the Treasury, whose instructions to collectors were to levy tonnage indiscriminately.

The exemption depended as much upon the fourth article of the treaty with Belgium as upon the treaty with the Hanseatic Republics, since only by their concurrent operation was this privilege conferred. The exemption was nevertheless a plain and positive one, and the officers of the United States were clearly in the wrong in imposing and enforcing the collection of such duties. This is now admitted on all hands. We find no necessity of setting forth here the various diplomatic correspondence on the subject, and the decisions of the Secretary of State, and Secretary of the Treasury, and the Attorney-General, all of which hold that the treaty obligations of the United States were clearly violated. These are fully set forth in House Ex. Doc. No. 62, first session Forty-fourth Congress, and in House Report No. 124, second session Forty-fifth Congress, parts 1 and 2.

On the 19th June, 1878, Congress passed the following act, the bill having been maturely considered by the Committee on Foreign Affairs of the House of Representatives and the Committee on Finance in the Senate:

"AN ACT to amend section twenty-nine hundred and thirty-one of the Revised Statutes of the United States so as to allow repayment by the Secretary of the Treasury of the tonnage tax, where it has been enacted in contravention of treaty provisions.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of section twenty-nine hundred and thirty-

one, of chapter six, title thirty-four of the Revised Statutes, shall not apply to cases of the payment of tonnage tax on vessels where the Secretary of the Treasury and Attorney-General shall be satisfied that the exaction of such tax was in contravention of treaty provisions; and he may draw his warrant for the refund of the tax so illegally exacted, as is provided in section three thousand twelve and one-half of said statutes: *Provided*, That this act shall not be construed to authorize the refunding of any tonnage duties whatever exacted prior to the first day of June, eighteen hundred and sixty-two; nor shall it apply to cases of the payment of tonnage tax heretofore made on vessels other than those of the Hanseatic Republics, and Sweden and Norway."

The object of this act was to authorize the refund of the tonnage duties so illegally exacted from the companies in question, relieving them from the necessity of making protest against payment within the thirty days required by the act of June 30, 1862, above referred to.

Under this act the North German Lloyd Company presented its claim for $130,785, as principal of duties paid, and $80,737.50, as interest at 6 per cent. per annum to August 8, 1878; and the Hamburg-American Packet Company presented its claim for $130,119, as principal of duties paid, and for $75,069.27, as interest on the same at 6 per cent. per annum to July 1, 1878.

In August last the amounts named as principal were paid by the Treasury Department to the two companies and accepted by them under protest, and the question now before your committee is the one embracing this claim for interest, referred to it by the letter of the Secretary of the Treasury, to be determined under the principles of international law; and the inquiry presented is, what shall be the just measure of reparation for an injury inflicted upon a foreign and friendly power in contravention of the solemn treaty obligations of the United States.

It is one of the highest national importance, not because it demands a considerable sum of money, but because it involves a question of national honor, and its determination will sanction a principle to which the Government will henceforth stand committed in the enforcement of its own demands against foreign powers.

The cause of said act of Congress authorizing a refund was the fact that the United States had violated treaty obligations by the exaction of moneys it had no right to receive. It has held these moneys for years, depriving the lawful owners of their use, benefit, and profit. We think it very plain that the United States, according to principles of public law, cannot make just or complete reparation for this wrong without now determining that it will pay interest, at a reasonable rate, on the moneys thus wrongfully exacted and withheld to the injury of the other party to the compact.

Pending the consideration of the bill in the Senate, the Hon. Justin S. Morrill, chairman of the Committee on Finance (from which committee the bill was reported), in a letter addressed to the Secretary of the Treasury under date of April 8, 1878, submitted, among others, the following inquiry: "Again, let me ask you whether, if nothing is said in the act as to the payment of interest, you would pay any?" To this the Secretary of the Treasury, under date of April 15, 1878, replied:

"You further inquire whether, if nothing be said in the act about payment of interest, this Department would pay interest on the amounts originally exacted. I reply that the question whether interest should be paid on the original claim would depend on the obligations of the Government under the treaty stipulations referred to, as such stipulations are ordinarily construed by the law of nations."

Nevertheless, the Secretary of the Treasury, on more mature consideration, and after obtaining the decision of the Attorney-General thereon, determined that he was not permitted to pay the interest under the peculiar phraseology of the act, and recommended further legislation by Congress.

It only remains to show, by the recognized authorities on international law, what the just obligations of the United States are under the treaty stipulations referred to, "as such stipulations are ordinarily construed by the law of nations."

It is sometimes asserted that "the Government never pays interest." This assumption doubtles arises from two ideas, viz: the principle that interest is often allowed in the nature of damage for money wrongfully withheld; and the common-law fiction, that the sovereign can do no wrong and can be guilty of no laches; therefore, the Government cannot be chargeable with interest. The idea may also have obtained acceptance from the custom and usage of the accounting officers and Departments refusing to allow interest generally in their accounts with disbursing officers, and in the settlement of unliquidated domestic claims arising out of dealings with the Government. It will hardly be pretended, however, that this custom or usage is so "reasonable," well-known, and "certain" as to give it the force and effect of law.

But it is submitted that even were it true that the Government, as a rule, pays no interest to its own citizens, the fiction that "the sovereign can do no wrong" can be in-

voked only in its relation to its own subjects and has no application whatever in its dealings with a foreign power, for both stand on the same footing of national equality.

By the principles of the public law, interest is always allowed as indemnity for the delay of payment of an ascertained and fixed demand. There is no conflict of authority upon this question among the writers on public law.

This rule is laid down by Rutherford in these terms:

"In estimating the damages which any one has sustained, when such things as he has a perfect right to are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of the fruits or profits. So that it is properly a damage to be deprived of them as it is to be deprived of the thing itself." (Rutherford's Institutes, Book I, chap. 17, sec. 5.)

In laying down the rule for the satisfaction of injuries in the case of reprisals, in making which the strictest caution is enjoined not to transcend the clearest rules of justice, Mr. Wheaton, in his work on the law of nations, says:

"If a nation has taken possession of that which belongs to another, if it refuses to pay a debt, to repair an injury, or to give adequate satisfaction for it, the latter may seize something of the former and apply it to [his] its advantage till it obtains payment of what is due, together with interest and damages." (Wheaton on International Law, p. 341.)

Domat thus states the law of reason and justice on this point:

"It is a natural consequence of the general engagement to do wrong to no one that they who cause any damages, by failing in the performance of that engagement, are obliged to repair the damage which they have done. Of what nature soever the damage may be, and from what cause soever it may proceed, he who is answerable for it ought to repair it by an *amende* proportionable either to his fault or to his offense or other cause on his part, and to the loss which has happened thereby." (Domat, Part I, Book III, Title V, 1900, 1903.)

"Interest" is, in reality, in justice, in reason, and in law, too, a part of the debt due. It includes, in Pothier's words, the loss which one has suffered and the gain which he has failed to make. The Roman law defines it as "*quantum mea interfruit; id est, quantum mihi abest, quantumque lucrari potui.*" The two elements of it were termed "*lucrum cessans et damnum emergens.*" The payment of both is necessary to a complete indemnity.

"Interest," Domat says "is the reparation or satisfaction which he who owes a sum of money is bound to make to his creditor for the damage which he does him by not paying him the money he owes him."

It is because of the universal recognition of the justice of paying, for the retention of moneys indisputably due and payable immediately, a rate of interest considered to be a fair equivalent for the loss of its use, that judgments for money everywhere bear interest. The creditor is deprived of this profit and the debtor has it. What greater wrong could the law permit than that the debtor should be at liberty indefinitely to delay payment, and, during the delay, have the use of the creditor's money for nothing? They are none the less the creditor's moneys because the debtor wrongfully withholds them. He holds them, in reality and essentially, in trust; and a trustee is always bound to pay interest upon moneys so held.

In closing these citations from the public law, the language of Chancellor Kent seems eminently appropriate. He says:

"In cases where the principal jurists agree the presumption will be very great in favor of the solidity of their maxims, and no civilized nation that does not arrogantly set all ordinary law and justice at defiance will venture to disregard the uniform sense of established writers on international law." (1 Kent Com., 19.)

The practice of the United States in discharging obligations resulting from treaty stipulations has always been in accord with these well-established principles. It has exacted the payment of interest from other nations in all cases where the obligation to make payment resulted from treaty stipulations, and it has acknowledged that obligation in all cases where a like liability was imposed upon it.

The most important and leading cases which have occurred are those which arose between this country and Great Britain—the first under the treaty of 1794, and the other under the first article of the treaty of Ghent. In the latter case the United States claimed compensation for slaves and other property taken away from the country by the British forces at the close of the war in 1815. A difference arose between the two Governments, which was submitted to the arbitrament of the Emperor of Russia, who decided that "the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces." A joint commission was appointed for the purpose of hearing the claims of individuals under this

decision. At an early stage of the proceedings the question arose as to whether interest was a part of that "just indemnification" which the decision of the Emperor of Russia contemplated. The British commissioner denied the obligation to pay interest. The American commissioner, Langdon Cheves, insisted upon its allowance, and, in the course of his argument upon this question, said:

"Indemnification means a reimbursement of a loss sustained. If the property taken away on the 17th of February, 1815, were returned now uninjured, it would not reimburse the loss sustained by the taking away and consequent detention; it would not be an indemnification. The claimant would still be unindemnified for the loss of the use of his property for ten years, which, considered as money, is nearly equivalent to the original value of the principal thing."

Again, he says:

"If interest be an incident usually attendant on the delay of payment of debts, damages are equally an incident attendant on the withholding an article of property."

In consequence of this disagreement, the commission was broken up; but the claims were subsequently compromised by the payment of $1,204,960, instead of $1,250,000, as claimed by Mr. Cheves; and of the sum paid by Great Britain, $418,000, was expressly for interest.

The propriety of this claim for interest was subsequently submitted to William Wirt, then Attorney-General, for his opinion. Mr. Wirt said:

"I am of the opinion that the just indemnifiation awarded by the emperor involves not merely the return of the value of the specific property, but a compensation also for the subsequent use and wrongful detention of it in the nature of damages. * * * I am of opinion that the interest, *according to the usage of nations*, is a necessary part of the just indemnification awarded by the Emperor of Russia." (Opinions Attorneys-General, vol. 2, p. 33.)

An earlier case, in which this principle of interest was involved, arose under the treaty of 1794 between the United States and Great Britain, in which there was a stipulation on the part of the British Government in relation to certain losses and damages sustained by American merchants and other citizens by reason of the illegal or irregular capture of their vessels or other property by British cruisers; and the seventh article provided in substance that "full and complete compensation for the same will be made by the British Government to said claimants."

A joint commission was instituted under this treaty, which sat in London, and by which these claims were adjudicated. Mr. Pinckney and Mr. Gore were commissioners on the part of the United States, and Dr. Nicholl and Dr. Swabey on the part of Great Britain; and it is believed that in all instances this commission allowed interest as a part of the damage. In the case of "The Betsey," one of the cases which came before the board, Dr. Nicholl stated the rule of compensation as follows:

"To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe, is the measure of compensation usually made by all belligerent nations, and accepted by all neutral nations, for losses, costs, and damages occasioned by illegal capture." (*Vide* Wheaton's Life of Pinckney, p. 198; also p. 205; note, p. 371.)

By reference to the American State Papers (Foreign Relations, vol. 2, pages 119, 120), it will be seen by a report of the Secretary of State of the 16th of February, 1798, laid before the House of Representatives, that interest was awarded and paid on such of these claims as had been submitted to the award of Sir William Scott and Sir John Nicholl, as it was in all cases by the board of commissioners. In consequence of some difference of opinion between the members of this commission, their proceedings were suspended until 1802, when a convention was concluded between the two Governments, and the commission reassembled, and then a question arose as to the allowance of interest on the claims during the suspension. This the American commissioners claimed, and though it was at first resisted by the British commissioners, yet it was finally yielded, and interest was allowed and paid. (See Mr. King's three letters to the Secretary of State, of 25th March, 1803, 23d April, 1803, and 30th April, 1803, American State Papers, Foreign Relations, vol. 2, pp. 387, 388.)

Another case in which this principle was involved arose under the treaty of the 27th October, 1795, with Spain, by the twenty-first article of which, "in order to terminate all differences on account of the losses sustained by citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of commissioners, to be appointed in the following manner," &c. The commissioners were to be chosen, one by the United States, one by Spain, and the two were to choose a third, and the award of the commissioners, or any two of them, was to be final, and the Spanish Government to pay the amount in specie.

This commission awarded interest as part of the damages. (See American State Papers, vol. 2, Foreign Relations, p. 283.)

So, in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States minister, interest was claimed and allowed. (See House Ex. Doc. No. 32, first session Twenty-fifth Congress, p. 249.)

Again, in the convention with Mexico of the 11th of April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authorities, a mixed commission was provided for, and this commission allowed interest in all cases. (House Ex. Doc. No. 291, Twenty-seventh Congress, second session.)

So, also, under the treaty with Mexico of February 2, 1848, the board of commissioners for the adjustment of claims under that treaty allowed interest in all cases from the origin of the claim until the day when the commission expired.

So, also, under the convention with Colombia, concluded February 10, 1864, the commission for the adjudication of claims under that treaty allowed interest in all cases as a part of the indemnity.

So, under the recent convention with Venezuela, the United States exacted interest upon the awards of the commission, from the date of the adjournment of the commission until the payment of the awards.

The recent Mixed American and Mexican Commission allowed interest in all cases from the origin of the claim, and the awards were paid with interest.

The distinguished tribunal at Geneva, under the treaty of Washington, allowed interest on the claims of the United States against Great Britain as being "just and reasonable."

In discussing the measure for determining damages to be awarded against Great Britain by the tribunal at Geneva, the eminent counsel of the United States, Mr. Evarts, Mr. Cushing, and Mr. Waite, contended as follows:

"The counsel assume that interest will be awarded by the tribunal as an element of the damage. We conceive this to be conformable to public law and to be required by paramount considerations of equity and justice."

The counsel thereupon cited the then recent decision by Sir Edward Thornton, the British minister at Washington, as umpire of a claim on part of the United States against Brazil, which held that the claimants were entitled to interest by the same right that entitled them to reparation—the interest allowed being $45,077, nearly half the total award of $100,740. The counsel for the United States further relied upon the awards under the treaty of Ghent and the Jay treaty, herein elsewhere referred to, as marked precedents for the allowance of interest.

The counsel on behalf of Great Britain, while objecting to the principle urged by the United States as not being applicable to unliquidated claims, nevertheless admitted its reason or justice as to liquidated or ascertained claims in the following words:

"Interest, in the proper sense of that word, can only be allowed where there is a principal debt of liquidated and ascertained amount detained and withheld by the debtor from the creditor after the time when it was absolutely due and ought to have been paid, the fault of the delay in payment resting with the debtor, or where the debtor has wrongfully taken possession of and exercised dominion over the property of a creditor. In the former case, from the time when the debt ought to have been paid, the debtor has had the use of the creditor's money and may justly be presumed to have employed it for his own profit and advantage. He has thus made a gain corresponding with the loss which the creditor has sustained by being deprived, during the same period of time, of the use of his money, and it is evidently just that he should account to the creditor for the interest, which the law takes as the measure of this reciprocal gain and loss. In the latter case, the principle is exactly the same; it is, ordinarily, to be presumed that the person who has wrongfully taken possession of the property of another has enjoyed the fruits of it; and if instead of this he has destroyed it, or kept it unproductive, it is still just to hold him responsible for interest on its value, because his own acts, after the time when he assumed control over it, are the causes why it has remained unfruitful. In all these cases it is the actual or virtual possession of the money or property belonging to another which is the foundation of the liability of interest. The person liable is either *lucratus* by the detention of what is not his own, or is justly accountable as if he were so."

And in pursuance of the principles thus asserted, the exalted tribunal at Geneva allowed interest on the demands of the United States against Great Britain, in the following words:

"And whereas it is just and reasonable to allow interest at a reasonable rate." (See decision and award of the arbitrators.)

In Judge Hale's report of November, 1873, to the Secretary of State, of claims before the American British Mixed Commisson under article 12 of the treaty of 8th of May, 1871, he says:

"The commission ordinarily allowed interest at the rate of 6 per cent. per annum

from the date of the injury to the anticipated date of the final award." (Ex. Doc., part 1, 1st session, 43d Congress. Part 2, Foreign Affairs, p. 21.)

It can hardly be necessary to pursue these precedents further. They sufficiently and clearly show the practice of the Government of the United States with foreign nations or with claimants under treaties.

Aside from considerations of international character, it will be found upon examination of the precedents where Congress has passed acts for the relief of citizens of the United States, that in almost every case where the Government has withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and definite, Congress has directed the payment of interest together with the principal. (See "Law of Claims against Governments," being Report No. 134, 2d sess. 43d Congress.)

Nor has the recovery of interest as against foreign powers depended upon arbitration or joint commissions for recognition of the principle. Such claims for interest have been directly and successfully urged by the diplomatic representatives of the United States as a matter of right under principles of established international law.

The cases are innumerable where claims have been enforced in behalf of citizens of the United States against foreign governments, with interest, and where, too, the damages were unliquidated and rested even in tort. These cases may be found stated at length in Senate Ex. Doc. No. 18, second session Thirty-fifth Congress. But confining ourselves rigidly to precedents established by the Government of the United States, like case now presented, we find numerous instances.

The United States presented a claim against Portugal for loss by seizure in 1829, at Lisbon, of specie belonging to James Hall and J. Shepherd, citizens of the former Government, which was being shipped contrary to law. Restitution was subsequently made, $17,741.98 being allowed to the United States, of which sum $7,652.98 was expressly allowed as interest.

Claims asserted against Mexico in behalf of Jonas P. Levy for illegal duties exacted in 1843–'46, where $3,675 was recovered including interest. Case of William B. Hatch for overcharge of tonnage duties, where $277.65 was recovered, with interest.

The case against Brazil of William W. Harper, administrator, for fine paid custom-house at Maranham, interest, &c., where $1,130.40 was recovered. The case of John Devereux, for anchorage and tonnage dues unlawfully imposed on the bark Globe, where, including interest, $196.99 was recovered.

The case of Foster & Elliott, for fine exacted on ship Louisiana, at Rio, in January, 1835, where $577.94 was recovered, including interest. The case of Francis A. Gray, for illegal exaction of fine at Rio in the same year, where $1,453.94 was recovered, including interest. The case of Hyman Gratz, president of Pennsylvania Insurance Company, for interest (only) on customs duty illegally exacted and previously refunded by Brazilian Government $506.65 was allowed and recovered.

The United States claimed certain indemnity from the Government of Brazil in the matter of the brig Caroline, which was paid. Subsequently, on review by this Government, the conclusion was reached that the money had been unjustly demanded and received, and in a letter of Secretary Fish to Señor de Barros, of the Brazilian legation, dated Department of State, June 26, 1874, he says:

"I now have the honor to inform you that the President, after a careful examination of the case, has come to the conclusion that the Government of Brazil is not justly responsible for the damages in this case. It is understood that the Government of His Majesty the Emperor of Brazil is of the same opinion respecting it. Under these circumstances the President regards it as the duty of the United States to repay to Brazil the amount thus received by their minister at Rio, with interest thereon at 6 per cent. per annum. * * * "

Here the sum of $96,405.73 was accordingly paid, covering the amount originally exacted, with 6 per cent. interest thereon, as being a just reparation for moneys wrongfully exacted from a foreign power. (See Foreign Relations United States, 2d sess. 43d Congress, No. 63, page 95.)

It will thus be seen that no principle is now urged that has not hitherto been repeatedly and successfully enforced by the United States in behalf of its own citizens against foreign governments.

The Federal courts of the United States have repeatedly determined, where an illegal tax has been collected, that in a suit against the collector, the person so paying the tax is entitled to interest from the time of the illegal exaction. (Erskine *vs.* Van Arsdale, 15 Wall., 77; Howland *vs.* Maxwell, 3 Blatchf., 147; Harrison *vs.* Same, *ibid.*, 421.)

Reason furnishes no distinction in this regard between the collector who first receives it and the Secretary of the Treasury to whom it is ultimately paid. They are equally the representative of the Government. Besides, the latter stands in the attitude of an accessory after the fact, and for this reason, of itself, should be held accountable.

As to the rule for the construction of treaties and the determination of rights thereby guaranteed, the engagements and obligations are to be interpreted in accordance with the principles of the public law, and not in accordance with any municipal code or executive regulation. No statement of this proposition can equal the clearness or force with which Mr. Webster declares it in his opinion on the Florida claims, attached to the report in the case of Letitia Humphreys (Senate Report No. 93, 1st sess. 36th Congress, p. 16.) Speaking of the obligation of a treaty, he said:

"A treaty is the supreme law of the land. It can neither be limited, nor restrained, nor modified, nor altered. It stands on the ground of national contract, and is declared by the Constitution to be the supreme law of the land, and this gives it a character higher than any act of ordinary legislation. It enjoys an immunity from the operation and effect of all such legislation.

"A second general proposition, equally certain and well established, is that the terms and the language used in a treaty are always to be interpreted according to the law of nations, and not according to any municipal code. This rule is of universal application. When two nations speak to each other they use the language of nations. Their intercourse is regulated, and their mutual agreements and obligations are to be interpreted by that code only which we usually denominate the public law of the world. This public law is not one thing at Rome, another at London, and a third at Washington. It is the same in all civilized states, everywhere speaking with the same voice and the same authority."

Again, in the same opinion, Mr. Webster used the following language:

"We are construing a treaty, a solemn compact between nations. This compact between nations, this treaty, is to be construed and interpreted throughout its whole length and breadth, in its general provisions, and in all its details, in every phrase, sentence, word, and syllable in it, by the settled rules of the law of nations. No municipal code can touch it, no local municipal law affect it, no practice of an administrative department come near it. Over all its terms, over all its doubts, over all its ambiguities, if it have any, the law of nations 'sits arbitress.'"

The levying of tonnage taxes on the vessels of these companies being unlawful, the exaction of the money on such unlawful levies was wrongful; and we think the wrongful taking of money excuses the necessity of a demand for the repayment. It therefore follows, in accordance with the principles of well-adjudicated cases, irrespective of the international rule, that if the money was wrongfully taken by the United States from these companies, it is bound to allow and pay interest on the money from the time it was so wrongfully taken.

The general doctrine which prevails on the subject of interest was elaborately discussed and correctly expounded in Reid *vs.* Rensselaer Glass Factory, 3 How., 436. Ch. J. Savage, after a full examination of the cases, asserts that interest is allowed: 1. Upon a special agreement; 2. Upon an implied agreement; 3. When money is withheld against the will of the owner; 4. By way of punishment for an illegal conversion or use of another's property; 5. Upon advances in cash.

It has been the invariable practice, at the circuits, for more than a quarter of a century, to allow interest in cases like the present. So well settled has our practice been in this respect that the question of interest on a debt which is withheld after it is due, without the assent of the creditor, rarely passes into the reports unless some more important question is connected with it.

These tonnage duties being paid under duress and without warrant of law, and being immediately transferred to the Secretary of the Treasury, they came into the hands of these officers unlawfully, the taking was tortious, and a conversion *per se*, and no demand for repayment was necessary to sustain trover or assumpsit for the value.

Where the property came lawfully in the defendant's possession, there must be a demand and refusal to sustain trover or assumpsit for the value. (Spoor *vs.* Newall, 3 Hill, 307.)

Where the taking is tortious no demand is necessary. (Connah *vs.* Hale, 23 Wend., 471; Bates *vs.* Conkling, 10 Wend., 391.)

To maintain an action for the wrongful conversion of property, it is enough that the rightful owner has been deprived of it by the unauthorized act of another assuming dominion over it. (Boyce *et al. vs.* Brockway, 31 N. Y., 490.)

In accordance with the law of these cases, there was tortious taking, conversion *per se*, at the date of exaction of these tonnage duties. The date of conversion, where the taking is lawful, is fixed from the date of the demand for the goods or money lawfully held, and by refusal to surrender them the possession becomes unlawful; and in assumpsit for the value, the owner is entitled to the value at the time of taking, with interest from the same date.

This rule gives interest from the date of seizure, where the taking is tortious, or the

plaintiff is wrongfully deprived of his money. As, in an action against a public officer to recover damages for a tort, it was held:

"The plaintiff has a vested right to the amount of the assessment. The interest thereon is but an incident—an outgrowth from that right. The defendant's wrongful act has prevented him from realizing his money. It was a willful, because an intentional wrong, and a plain violation of a legal duty which the defendant owed to the plaintiff. If entitled to sustain this action at all, the plaintiff should *obtain complete satisfaction.*" (Clark *vs.* Miller, 47 Barb., 43.)

The correct rule of damages is its value at the time of taking an interest. (N Y. Guaranty and Indemnity Co. *vs.* Flynn, 65 Barb., 368.)

Having ascertained what plaintiff's damage was, the referee properly allowed interest on the amount thereof from the time plaintiff became entitled to payment of the same. Without the interest plaintiff would not have secured full indemnity. (Mailler *vs.* Express Propeller Line, 61 N. Y., 316.)

The same rule is affirmed in Wehle *vs.* Haviland *et al.*, 66 N. Y., 450; Prince *vs.* Connor, 69 N. Y., 608.

This is the rule as to illegal exactions by revenue officers. (Erskine *vs.* Van Arsdale, 15 Wall., 77.)

Interest is chargeable from the time the money was wrongfully obtained or wrongfully detained, and not from the time of demand. (Wood *vs.* Robbins, 11 Mass., 506; Atlantic Nat. Bank *vs.* Harris, 118 Mass., 147.)

The cases cited from Massachusetts reports are based upon the same principle, which was clearly laid down as the law by Judge Story, in the United States circuit court, in the case of Ricketson *et al. vs.* Wright *et al.*, 3 Sumner 336.

In this case the proceeds of a cargo belonging to the plaintiffs had been taken under legal process by the defendants, the consignees, in Rio de Janerio, for the debts of prior owners of the ship.

The court held the taking was unlawful, but that the tort had been waived by bringing assumpsit. The question arose as to the time from which interest should be computed, whether from the time of the actual receipt of the money by the defendants at Rio, or from the time when the same would have been received as cash by the plaintiffs in Boston, if remitted in the ordinary course of business.

The plaintiffs insisted that the defendants, having had the money and the use of it, should pay interest from the time of its receipt. The defendants held that the interest, being in the nature of damages for the detention of the money, must date from the time when the defendants were bound to have it paid over.

The court held:

"The question is not without difficulty; but from the best consideration which I have been able to give it, my opinion is that interest ought to run from the receipt of the money by the defendants. If this were the case of an ordinary transaction and sale by consignees, who had sold property on account of consignors in violation of their orders, and held the proceeds for and on account of their principals, I should have no doubt that the plaintiffs, by bringing assumpsit for the proceeds, had affirmed the sale and proceedings throughout, and that the acts of the consignees being done by them throughout for and on account of the principals, must be all deemed to be adopted by the principals. But here the case is entirely otherwise. The defendants, so far from attaching or selling the property on account of the plaintiffs, and retaining the proceeds for their account, professedly acted throughout adversely to the plaintiffs, and on their own sole account. They insisted upon the right to hold the proceeds for themselves, as their own property, rightfully acquired; and although the plaintiffs, by bringing assumpsit for the proceeds, have waived the tort, it is impossible to say that they have adopted or ratified the acts of the defendants in retaining the proceeds for their (the defendants') own use and account. That would be to defeat their own right to recover in this very suit upon the merits. I think, therefore, that the defendants must still be deemed to have received and held the proceeds adversely to the plaintiffs, and, of course, to have had the possession of the funds, and to have used them for their own benefit. And, if so, they ought to pay interest for the same from the time when the funds were appropriated to their own use. In the common case of an illegal conversion of property by a defendant acting adversely and for his own interest in the sale of the property, the plaintiff does not, by waiving the tort and bringing assumpsit for the proceeds, do more that affirm the sale.

"The defendant is still liable for interest upon the amount from the time of receiving the proceeds of the sale; for he has received and detained them, not for the plaintiff, but for himself. And the presumption of law is, that the defendant in such a case has derived a benefit from the use of the funds equivalent to the interest; or what is equally potent, that the plaintiff has lost the use of his money from the time of the receipt thereof by the defendant by the unlawful and wrongful detention of the defendant. In the present case it is perfectly clear that the plaintiffs never could have drawn a bill for the

funds which would have been honored, nor could they have insisted successfully upon a remittance of them. And up to the very time of the trial of the present cause the defendants have claimed the proceeds as their own, not recognizing, but absolutely repudiating, the title of the plaintiffs. It seems to me that interest, therefore, belongs to the plaintiff during all the time of the detention.

"When money is wrongfully and illegally exacted it is received without any legal right or authority to receive it; and the law at the very time of payment creates the obligation to refund it." (Bank of the United States vs. Bank of Washington, 6 Pet., 19.)

Even were this of the class of cases where demand is necessary to carry interest, the peculiar circumstances here would in all equity and fairness relieve it from such requirement. Had the exaction of these moneys been in direct violation of the provisions of the treaty with these Hanseatic Republics, patent upon the face of the treaty itself, then there might be some laches attributable to these companies in not having protested against these respective payments at the time and failing to demand an immediate return of the money. But the United States, in disregard of its obligations, at first unlawfully exacted these duties, even as against Belgium, whose treaty on its face carried like exemption, and a refund to subjects of that Government was made in February, 1872; but the restitution being promptly made, and the amount being small, no claim for interest was set forth. The case is much stronger with the Hanseatic Republics. The United States gave them no notice that by virtue of a treaty with Belgium (made 30 years subsequent to their own), to which those republics were utter strangers, certain commercial rights had accrued to them which they could not anticipate, and it would be unreasonable, as well as unjust, to hold these republics to a knowledge of treaty privileges thus conferred, which it seems our own officials, specially charged with their administration, had utterly overlooked and disregarded.

The diplomatic correspondence herein referred to, however, shows that demand was made upon this Government for the refund of these moneys as soon as the authorities of the Hanseatic Republics became advised concerning the character of the indirect concession made to them, viz, as early as 1872, and the official correspondence also shows a consistent and uninterrupted claim to these moneys from the beginning.

The concluding consideration is at what rate the interest should be allowed and paid. With this the committee find little or no difficulty, since this Government, from its earliest years, has established the rate at 6 per cent., by decisions of the Federal courts and by the multitude of cases we have examined, as the measure of lawful interest for moneys unjustly held. Nor would this rate of interest work any hardship upon this Government. These moneys were withheld from the year 1862 to the year 1878, when the United States was a borrower of money at a rate largely in excess of 6 per cent. During all this period the United States Government, unhappily, was not a creditor among nations, but an anxious borrower, and it is plain that, as a borrower, the needs of the Government was relieved to the extent of these moneys wrongfully exacted and withheld.

These moneys, from the beginning being those of another, should have been restored immediately. Had they been thus restored and by the owners loaned to the United States for a period covering most of the years they were retained, a much larger sum as interest would have accrued on any of the then current public loans than the simple interest at 6 per cent. to be now allowed. We think, therefore, that the rate thus sanctioned by a long current of judicial decisions and by acts of Congress may well be adhered to in the present instance.

From the facts in the case, it appears:

1st. The United States, by treaty of 1827 with the Hanseatic Republics, engaged not to grant any particular favor to any other nation in respect of commerce and navigation that should not immediately become common to these republics.

2d. That by treaty of 1858 with Belgium the steamships of that country were exempt from payment of tonnage duties in ports of the United States.

3d. That, by operation of these treaties taken together, the steamships of the Hanseatic ports were also exempted so long as both treaties should remain in force.

4th. That, notwithstanding such exemption by treaty, and the proviso in the act of 1862 "that nothing in this act contained shall be deemed in any wise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels," nevertheless these provisions were totally disregarded by the United States officers, and large sums of money were exacted from companies thus exempt.

5th. That such exactions were made in contravention of the treaty stipulations of the United States has been decided by the Attorney-General, by the Secretary of State, and by the Secretary of the Treasury, and, lastly, determined by Congress by the act of June 19, 1878, under construction of which the precise sum exacted has been refunded and no more (although claim was made for interest); the United States having the uninterrupted use of such moneys for a period varying from three to fifteen years.

6th. That such refund was taken under protest, with a distinct declaration on part of claimants that claims for interest would be urged before Congress. Under these circumstances your committee are clearly of the opinion that a just reparation for the injury committed alone by the United States cannot be made by returning to the innocent party simply the money wrongfully exacted without an allowance for its use. The United States would otherwise derive a large pecuniary benefit from its wrongful act, and an innocent friendly power would sustain a corresponding pecuniary loss. For the United States to claim such a benefit would violate one of the fundamental axioms of the common law as well as a cardinal principle of morality, that no one should be permitted to derive an advantage from his own wrong to the detriment of another.

It should not be forgotten that during the entire period of these exactions all steam-vessels of the United States entering the ports of Bremen and Hamburg were wholly exempt from the payment of like duties, and that not a dollar has been levied upon American tonnage to excuse or justify the exactions of the United States, and that perfect reciprocity could have existed only on exemption by the United States.

The obligations of the United States, construed as they must be in this instance by rules and precedents of an international character, are not and cannot be properly discharged without the payment of interest on these claims. This Government must and should uncomplainingly submit to the administration of such rules of international law as it has aided to establish for the determination of rights between itself and other powers. It could not now with propriety and for the purpose of a temporary and pecuniary gain ask other nations to change a rule to which it has long and consistently adhered, and by which its citizens have hitherto been repeatedly benefited. As we have said before, the question is one of the highest national importance, as it involves a consideration of national honor, and its determination will sanction a principle to which the United States will henceforth stand committed in the enforcement of its own demands against foreign powers.

The time will surely come when American commerce will again, as in the past, maintain its supremacy upon the seas, and when kindred questions affecting commercial concessions to us under treaties will receive the interpretation which a liberal and enlightened judgment has hitherto invoked for the determination of questions arising between friendly powers.

It would be unjust, unwise, and unstatesmanlike to deviate in the present instance from uniform precedents, and such course would most likely be found at no remote day to have been a humiliating and unprofitable evasion of just obligations, the fulfillment of which has been already too long delayed.

Your committee adopt the said report made to the Forty-sixth Congress, so far as herein set forth, and recommend the passage of said bill (H. R. 1062) as amended and attached to this report.

That the claim is considered just by the Treasury Department is apparent from the following letter from Assistant Secretary Fairchild to the Secretary of State, under date March 4, 1886, to wit:

TREASURY DEPARTMENT, *March* 4, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, submitting for the consideration of this Department a translation of a note, under date of the 16th ultimo, from the minister of Germany at this capital in relation to the claim of certain German steamship companies for the payment of interests on certain moneys which were exacted from said companies in contravention of treaty provisions and heretofore refunded to them under the act of July 19, 1878.

You request the views of this Department as to the justice of the claim of the German steamship companies.

I have the honor to reply that the companies referred to in the note of the German minister are the North German Lloyd, the Hamburg-American Packet Company, and the Eagle Line. The amounts paid to these several companies will be found tabulated in the Senate Executive Document No. 30 of the second session of the Forty-eighth Congress, a copy of which was transmitted to the Department of State in a communication from this Department of the 16th of January last, relating to claims for repayment of tonnage duties on French vessels.

I would say in this connection that a special claim for the refund of the tonnage-tax paid on a steamship of the Lloyd Line with interest was presented to this Department in 1875, and was rejected solely on the ground of a lack of protests and appeal, and not on the ground that it was not a just claim. In January, 1873, these German steamships were declared exempt by order of this Department from payment of tonnage dues on account of the exaction of such dues being in contravention of treaty stipulations. The sheer inability of this Department to refund tonnage dues illegally exacted in the ab-

sence of a proper protest and appeal led to the passage of the act of July 19, 1878. The justice of the claim to the original sum never was disputed or doubted by this Department. In a communication of the Secretary of the Treasury to the chairman of the Committee on Finance of the Senate under date of April 15.1878, it was declared that "the money (the tonnage exactions) of which refund is demanded, was taken in violation of law and in contravention of treaty stipulations." Congress admitted the justice of the original claims by the passage of the act of July 19, 1878. In the letter of this Department above referred to, it was said in response to the question whether interest could be paid on the original claims, that that would depend upon the obligations of this Government under its treaty stipulations with the Hanseatic towns, "as such stipulations are ordinarily construed by the law of nations." It is not for this Department to decide what usage may require in this class of cases, but it is known that this Government demanded interest in the settlement of the Alabama claims, and has paid interest on claims of foreign governments where such claims had no basis in justice more clearly evident those of these German companies.

The original moneys were taken and have been long held from the original claimants, simply because the power of this Department to cut off interest was so restricted by the law requiring protest and appeal. The refusal to pay interest in cases of this character might be a detrimental precedent should claims of a similar character arise or be discovered where this Government might be claimant.

Respectfully yours,

C. S. FAIRCHILD,
Acting Secretary.

The Honorable the SECRETARY OF STATE.

The Imperial Government of Germany, through its minister resident, is pressing upon the proper Department the payment of this claim. It requires legislative action. In view of the favorable reports made from time to time upon the claim, and of its palpable merits, it hardly comports with the dignity and justice of such a Government as ours that favorable and final action upon it should be longer deferred.

The committee reports back the bill with the recommendation that it do pass.

C

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1061, and views of the minority.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. SPOONER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 33.]

The Committee on Claims, to whom was referred the bill (S. 306) for the relief of Alexander K. Shepard, having examined the same, respectfully report:

That this claim was fully considered by the committee at the second session of the Forty-eighth Congress, and favorably reported with amendments, reducing the amount of the claim from $17,268.50 to $14,458.04. Since the former report of the committee additional evidence has been filed with the papers, showing that the late Marshal John Hardy and the sureties on his official bond are now and have been for many years insolvent, so that claimant could have no efficient remedy against them. The other facts of the case are fully set forth in the report of this committee above referred to, being Senate Report No. 1339, which, as a statement of facts, is adopted, as follows:

The material facts of this case are set out in the report of the House Committee on Claims, made at the last session of the present Congress, and which is here adopted, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 28) for the relief of A. K. Shepard, submit the following report:

The evidence in this case shows that on the 15th day of December, 1865, the Government of the United States sold in the city of Selma, Ala., at public outcry, after due notice given, a large lot old iron, brass, and copper, the débris and material on hand of the naval gun foundry and arsenal of the late so-called Confederate States. The said sale was made by the collector of customs for the port of Mobile, Ala., acting under the express authority and direction of the Secretary of the Treasury of the United States. That A. K. Shepard became the purchaser of said material at the price of $17,268.53, and paid the same by order of the President of the United States to General Wager Swayne, assistant commissioner of the Freedman's Bureau, and in charge of the Department of Alabama. That soon after Shepard obtained possession of said iron, &c., he was dispossessed of the same by John Hardy, the marshal for the district of Alabama, who acted under the orders of Richard Busteed, United States district judge for the district of Alabama, and that the said marshal, by order of the said judge, sold the said iron with instructions to hold the proceeds subject to his orders. That in conformity with said order the marshal deposited only the sum of $5,858.80 in the First National Bank of Selma, though he received a sum therefor five times greater, at least $30,000. That on the 30th day of May, 1871, the said court dismissed the suit for libel and ordered the money deposited in the First National Bank of Selma, as stated above, to be paid to the said Shephard, thus establishing the validity of the first sale of the said property as made by the Government on the 15th day of December, 1865, and the legal rights of the said Shepard.

That before the said decision was made the First National Bank of Selma had failed and passed into the hands of the Comptroller of the Currency for the United States

for liquidation, and that on the 8th day of June, 1874, the said Comptroller paid the said Shepard the sum of $2,050.52 as his pro rata share of the dividends arising from the assets of the said bank, and on the 22d day of December, 1882, paid the said Shepard the further sum of $679.62 as his portion of the final distribution of the assets of said First National Bank of Selma, Ala.

That before the said Shepard was dispossessed of the said iron, brass, and copper, he had sold a small portion of the same, amounting in the aggregate to $1,504.77; that he paid out for guarding and protecting said material $1,424.45, which left him the net sum of $80.32, which, together with the sum of $2,730.14 received from the Comptroller, makes a total net balance received by him of $2,810.46, without any allowance for the heavy court expenses and other necessary outlays in pursuit of his rights, which are shown to equal that amount.

In consideration of all which your committee report favorably and recommend the passage of the bill with the following amendment: Amend the fifth line by striking out "seventeen thousand," and insert "fourteen thousand four hundred and fifty-eight and seven one-hundredths."

From the paper before your committee it appears that before the seizure of the property by the marshal, Shepard had contracted with responsible parties to sell the lot of scrap-iron, &c., purchased of the Government, at prices which would have realized him a profit of at least $12,731. It appears that the marshal first seized the property under the direction of the United States district attorney, who shortly thereafter instituted proceedings in district court, at the May term, 1866, for and on behalf of the United States, to have said property confiscated because it had been used and employed in aiding and promoting the rebellion. This libel was filed on the 20th July, 1866. The warrant of seizure was promptly issued; came to the marshal's hands on the 30th July, 1866, and on the same day the marshal made affidavit that the property could not be protected, &c., and asked for an immediate order of sale. This was approved by the district attorney, and the order was at once made by the judge. It appears from the evidence that the marshal sold the property for about $30,000; but does not appear to have accounted for the funds, except to the extent of the $5,858.80 deposited in the First National Bank of Selma.

The title of the Government to the property sold to Shepard is unquestioned, and unquestionable. That the sale vested in him the title is undeniable, and the court in the suit so held, and the committee would not be willing to admit that the district attorney and the marshal are to be so far considered the agents of the Government in the commencement of the proceedings, and in the wrongful acts by which the proceeds of the sale were diverted and lost, as to charge the Government with any liability to respond in damages to Mr. Shepard.

The allowance of this claim, based upon an admission of liability, would form a precedent which the committee is not willing to make, but the circumstances of the case are peculiar and render it exceptional, and the committee think that as a matter of justice and equity, all things being considered, the United States should pay back to Mr. Shepard the money which it received from him upon the purchase of the material, less what he received for the portion he sold, and by way of dividends from the assets of the bank.

The property was purchased by him in good faith, paid for by him promptly, and contracted by him to be sold at a profit of $12,731, or thereabouts.

The proceeding in which it was wrested from his possession was in the name of the Government, instituted under the general laws of the United States, and the result, while it vindicated his title, brought to him almost utter loss.

It will not be forgotten that the judge who presided over the court, and made the orders of immediate sale of this property, upon the theory that it could not be protected, &c., was impeached and removed.

The proceedings followed close upon the termination of the war, and were in a region which had been the theater of active war; and was even then much disturbed.

There is some reason for thinking that the proceeding was little less than a conspiracy to accomplish what it did accomplish—a diversion of

the proceeds of this property to others than either the Government or the owner.

The facts and circumstances conspire to render the case an exceptional one. That it brought financial ruin to a worthy man, now well advanced in years, is quite clear.

The committee believe that substantial justice requires, in the exceptional character of the case, that the Government should pay back to Mr. Shepard so much of the purchase money as he has not already received. The bill proposes to repay to him the entire amount—$17,268.50. It appears that the claimant has already received the sum of $2,810.46, and the committee concur in the conclusion of the former report, that this sum should be deducted from the amount of purchase money paid—$17,268.50, which will leave the sum of $14,458.04 that should be returned to him.

This will not by any means reimburse him, for the evidence shows that he paid a large sum for court expenses and necessary outlays in protecting, or attempting to protect, his rights. That expenditure, however, the committee cannot take into account.

The House of Representatives has passed at the present session of Congress a bill appropriating to Mr. Shepard the entire sum of $17,268.50, which bill is H. R. 33. The committee recommend that the said bill be amended by striking out the words "seventeen thousand two hundred and sixty-eight dollars and fifty cents," where they occur in the fifth and sixth lines of said bill, and inserting in lieu thereof the words "fourteen thousand four hundred and fifty-eight dollars and four cents," and that the said House bill, as thus amended, do pass.

The committee recommend that S. bill 306 be indefinitely postponed.

VIEWS OF THE MINORITY.

At the second session of the Forty-eighth Congress a favorable majority report upon this claim was made from the Senate Committee on Claims. The chairman of the committee and myself submitted a minority report, which is as follows:

The undersigned are unable to agree with the majority of the committee in the foregoing report. In our judgment the fact that the property out of which the claim arose was purchased by the claimant from the United States is wholly immaterial. The sale was valid and passed the title to the property, and it was sustained by the judgment of the court.

The proceedings for the confiscation of the property commenced by the United States district attorney on behalf of the United States was commenced and prosecuted in pursuance of the general laws of the United States. The principle which would require compensation to be made to the complainant in this case, for his loss on account of said judicial proceedings, would require compensation to be made in every case to a party against whom an unsuccessful legal proceeding *in personam* or *in rem*, civil or criminal, has been or shall be commenced or prosecuted in the name of the United States under the direction of the Department of Justice, by any prosecuting officer of the Government in pursuance of the laws of the United States.

It would be a dangerous precedent, and one which the undersigned are not willing to establish, to hold the Government liable to make compensation for losses caused by the acts of the judges, United States attorneys, and ministerial officers of courts of justice. The committee have repeatedly held that the United States is not liable for the mistaken or wrongful acts of its agents.

J. N. DOLPH.
ANGUS CAMERON.

Nothing has occurred since to change my views of the case.

J. N. DOLPH.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1062.

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1886.—Ordered to be printed.

Mr. WHITTHORNE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 277.]

The Committee on Claims, to whom was referred the bill (S. 277) for the relief of Samuel P. Evans, beg leave to report:

That this claim is founded upon the following state of facts, viz: Samuel T. Evans was United States marshal for the eastern district of Tennessee. His term of four years as such expired on March 16, 1881. His successor was appointed on the 19th day of May, 1881, and was qualified on 31st day of May, 1881. During the period of time, from date of expiration of his term of service until the qualification of his successor, Mr. Evans performed the duties of his office and incurred certain legal expenses—his account for which, though duly approved by all the officers of the Government until it reached the office of the First Comptroller (then Judge Lawrence), was by him disallowed. The amount of the account is shown by the letter of Comptroller Durham to Hon. John H. Rogers, member of the present House of Representatives, to be $1,154.04 (the amount named in the bill), as well as the other facts in the case.

The First Comptroller disallowed the claim, simply for the reason that Mr. Evans, at the time of rendering the services, was not "an officer," and hence such services were without warrant of law. But in rendering his decision, Comptroller Lawrence says:

> No stronger claim, *ex æquo et bono*, could be presented; and if the First Comptroller were invested with a discretion to make payment founded on principles of abstract justice as applied to the circumstances under which services were rendered, and without reference to fixed principles of law, or consequences resulting generally, the claimant would be paid.

It is evident from a review of this opinion of Comptroller Lawrence (see 3d Lawrence), whilst not questioning the soundness of the same, that this is manifestly and justly an equitable claim against the Government, and should be paid, and hence your committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1063.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. JONES, of Arkansas, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1534.]

The Committee on Claims, to whom was referred the bill (S. 1534) entitled "A bill for the relief of John P. Bush and Martin Grigsby," report that they have had the same under consideration, and appending hereto the letters of the Commissioner of Internal Revenue, which contain the facts and equities in the case, they recommend that the bill be passed.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, January 8, 1885.

GENTLEMEN: I have received a note from Henry Talbott, clerk, &c., under date of the 7th instant, in which he says, "I am directed by Hon. H. A. Herbert and Hon. J. C. S. Blackburn to forward you the inclosed bill, with the request that you favor them with your opinion at your earliest convenience." The bill inclosed is H. R. 7766, entitled "A bill for the relief of John P. Bush and Martin Grigsby." In my opinion, this claim is a meritorious one, and should be paid. The reasons upon which this bill was based are found in a letter, a copy of which is inclosed, addressed by me to the honorable Secretary of the Treasury under date of August 15, 1883.

I also inclose the bill sent to me. In a postscript to the letter of Mr. Talbott he says, "In connection herewith they also submit this query, why the claim has not been paid if it has already received your favorable consideration?" In reply to this, I have to say that while I do not admit the right of any one under the law to question the finality of the decision of the Commissioner of Internal Revenue after he has been advised by the Secretary of the Treasury upon a case like this, still there *was* a difference of opinion between this office and the accounting officers of the Treasury. But if this difference had not existed, the claim could not have been paid without an appropriation made expressly therefor. The claim arose in 1875. Section 5, act of June 20, 1874, 18 Statutes at Large, part 3, page 110, contains the following clause: "That from and after the first day of July, 1874, and of each year thereafter, the Secretary of the Treasury shall cause all unexpended balances of appropriations which shall have remained on the books of the Treasury for two fiscal years to be carried to the surplus funds and covered into the Treasury." The interpretation of this law has been that an appropriation is good for the fiscal year in which it is made and for two full fiscal years thereafter, but not for a longer period. All claims more than three years old are held to require a special appropriation.

Very respectfully,

WALTER EVANS,
Commissioner.

Hon. H. A. HERBERT and
Hon. J. C. S. BLACKBURN,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, August 15, 1883.

SIR: I have the honor to submit herewith, for your consideration and advisement, the claim of Messrs. Bush & Grigsby, for the refunding of $1,041.12 taxes paid on deficiences in the production of spirits during the months of February, March, April, and May, 1875.

These taxes, with penalty and interest, were paid in July, August, and September, 1875. On the 22d of January, 1877, the firm presented a claim for the refunding of $1,087.69 as the entire amount of taxes, penalty, and interest collected on account of deficiencies in the months mentioned. On this claim the sum of $55.84 was allowed in May, 1877, upon the ground that in computing the tax to be assessed for February, 1875, the number of days charged as days of operation was too large by one. The balance of the amount claimed appeared to have been legally assessed and collected, and although relief was asked on the ground of unavoidable accident, nothing could be refunded on that ground in 1877.

The claim now under consideration was filed in this office October 23, 1879, and I am asked to refund the taxes under the provisions of section 6 of the act of March 1, 1879.

This alleged that the deficiencies resulted from unavoidable accidents, without fraud or negligence on the part of the distillers. The evidence submitted in support of the claim is general in its character. Repeated efforts have been made to obtain more positive evidence but without success.

The claim has been pending several years, and the claimants assert that they have filed all the evidence in its support now in their power to produce.

The allowance of the claim has been recommended by late Collector Wilson, and also by the present collector, Lewis Buckner.

It appears that the machinery used in this distillery was old and defective, and during the months in question frequently broke down or got out of order, necessitating delays in distilling.

The question whether the use of defective apparatus implies a want of due diligence might, if admitted, be set up against the allowance of this claim.

I am disposed, however, to give a liberal construction to that provision of the act under which relief is claimed, and to hold that the use of imperfect machinery should not, in this instance at least, prevent the desired relief.

I am satisfied that the deficiencies in question resulted from unavoidable accidents, and I propose to allow the claim for $1,029.34, made up as follows:

For February, $17.91; for March, $522.40; for April, $171.62; for May, $274.50, and the penalty and interest, $42.91—total, $1,029.34.

Very respectfully,

WALTER EVANS,
Commissioner.

Hon. C. J. FOLGER,
Secretary of the Treasury.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1064.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. VANCE, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill H. R. 7470.]

The Committee on Finance, to whom was referred the bill (H. R. 7470) for the relief of William Fisher, have had the same under consideration, and submit the following report:

The following report was submitted to the House of Representatives:

[House Report No. 1384, Forty-ninth Congress, first session.]

The Committee on Ways and Means, to whom was referred the petition of William Fisher, having had the same under consideration, make the following report:

William Fisher was a distiller of brandy from fruits in Franklin County, Virginia, in the years 1883 and 1884. He distilled and stored in his cellar 257 gallons of brandy. Said cellar was the place of deposit designated by the proper officials of the Government. While there, before the tax was paid, his house took fire by accident, on March 11, 1885, and burned with all his household and kitchen furniture, together with all the brandy. His property was a total loss. He is poor and has been assessed on said brandy so destroyed the sum of $231.30 taxes, together with interest and costs. He petitions for release from payment of the same.

Your committee are of opinion that as the brandy was destroyed and never went into consumption, and the destruction was without Fisher's fault, the relief should be granted. They therefore recommend the passage of the accompanying bill.

The facts that the cellar was used as a warehouse and of the destruction of the brandy are fully substantiated by the following documents:

UNITED STATES INTERNAL REVENUE,
DEPUTY COLLECTOR'S OFFICE, FOURTH DISTRICT VIRGINIA,
Rocky Mount, Va., March 19, 1886.

SIR: At the request of Mr. Fisher I write this to say that this cellar of his (William Fisher's) house was the regularly approved warehouse and place of deposit for the brandy that was burnt for him, approved by the collector, and that said brandy could not have been legally deposited anywhere else. I have looked into the facts in this case, having had a distress warrant in my hands for the collection of the tax on the brandy, and have *no doubt* that the poor man actually lost not only the brandy upon which the tax is claimed, but also a good lot of stamped brandy, together with the bulk, if not all, of his household and kitchen furniture. I believe this to be a case for legislative relief, and hope he may be relieved from this tax.

Respectfully,

W. D. VAUGHAN,
Deputy Collector Internal Revenue.

Col. GEO. C. CABELL, M. C.,
Washington, D. C.

The list of taxes assessed on Form 23 shows the following amount of tax assessed against William Fisher, of Bonbrook, Franklin County, Va.:

January list, 1885.—Stamp tax, $69.30; penalty and interest to January 23, 1886, $5.53.

February list, 1885.—Stamp tax, $75.60; penalty and interest to January 23, 1886, $6.03.

April list, 1885.—Stamp tax, $9; penalty and interest to January 23, 1886, $0.90.

May list, 1884.—Stamp tax, $77.40; penalty and interest, 5 per cent., penalty and 1 per cent. per month from June 1, 1884.

W. D. VAUGHAN,
Deputy Collector, Third Division, Fourth District, Virginia.

I live within 150 yards of William Fisher, a fruit distiller in the third division, fourth internal revenue district of Virginia. I know him to be a truthful and good citizen. I know that the brandy made by him in the years 1884 and 1885 was deposited in the cellar of his dwelling house. I was frequently in the cellar and know that his brandy was in said cellar. I know that the house, with the household and kitchen furniture, was destroyed by fire on or about the 11th of March, 1885, and that the said Fisher could not possibly have saved said brandy from the flames, as there was but one entrance to the cellar, and that through the house.

GEO. W. PETERS.

JANUARY 2, 1886.

WESTERN DISTRICT OF VIRGINIA:

I, A. T. Dillard, a United States commissioner of the circuit court of the United States in and for said district, do certify that George W. Peters, whose name is signed to the above affidavit, bearing date on January 2, 1886, personally appeared before me and made oath to the truth of said affidavit.

Given under my hand this 7th day of January, 1886.

A. T. DILLARD,
United States Commissioner.

I live within 1 mile of William Fisher; I regard him to be a truthful and reliable man; I know that he had his brandy deposited in his cellar, as he wanted to get some money from me to stamp said brandy, and carried me into the cellar, to show me that he had the brandy, and that he would make me safe in the premises if I would let him have the money; I know that his house was destroyed by fire about the 1st of March, 1885, as I was at his place the morning after the fire.

PETER N. MONTGOMERY.

JANUARY 2, 1886.

WESTERN DISTRICT OF VIRGINIA.

I, A. T. Dillard, a commissioner of the circuit court of the United States in and for said district, do certify that Peter N. Montgomery, whose name is signed to the above affidavit, bearing date on 2d day of January, 1886, personally appeared before me and made oath to the truth of said affidavit.

Given under my hand this 5th day of January, 1886.

A. T. DILLARD,
United States Commissioner.

The following letter sets forth the reason why existing provisions of law do not cover the case:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 20, 1886.

SIR: I am in receipt of yours of the 18th instant, in which you state that Mr. William Fisher, distiller, wishes to be relieved from the payment of tax on 250 gallons of fruit brandy, destroyed while stored in the cellar of his dwelling. You ask, "Will you please say to me without delay whether or not you can act in the case."

I reply that no claim appears to have been presented for the abatement of this tax. If he were to present a claim based on the facts stated, it is not understood how any relief could be afforded by this office.

The tax on spirits lost by casualty while stored in a *bonded warehouse* may be abated or refunded, as the case may be. (See sections 3221-2-3, Revised Statutes.)

There is no provision in the law authorizing relief from payment of tax after the spirits have been removed from the distillery premises.

Mr. Fisher's brandy was not in a bonded warehouse at the time of the casualty. In fact, it was not required to be stored in such warehouse. It had passed entirely out of the custody of a United States officer.

If the destruction of the brandy is well established, the relief from payment of tax may be a proper subject for the consideration of Congress.

I regret that the case is one for which no relief appears to be provided in the statute.

Respectfully,

H. C. ROGERS,
Acting Commissioner.

Hon. GEORGE C. CABELL,
House of Representatives, Washington, D. C.

In view of the foregoing, the committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1065.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7365.]

The Committee on Pensions, to whom was referred the bill (H. R. 7365) for the relief of Nancy Franklin, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7365) for the relief of Nancy Franklin, have had the same under consideration, and submit the following report:

The claimant is the mother of Bayliss Norton and James Norton, late privates in the Second Regiment North Carolina United States Volunteers, and of Josiah Norton, Third Regiment North Carolina United States Volunteers.

Her claim for a pension was rejected on the ground that "soldiers were not in the line of duty when killed."

The evidence in the case is very lengthy and voluminous, with some conflicting testimony, but as Special Examiner Howard Miller made a careful examination of the case and report on the same on or about the 17th day of May, 1884, we quote the same instead of going over the evidence in detail. He says:

"This is a very difficult case and is remarkable in many ways. The whole matter hinges on the question of line of duty. The soldiers' captain, lieutenant, and sergeant know nothing about it; the parties are in doubt. It is absolutely impossible for one to get the facts. I have seen scores of people and they all know of the killing, but not one of them is able to tell why they were at home. The men in this command came and went as they pleased. The colonel allowed it. These boys, all parties agree, were good soldiers, and the record of the mother precludes the idea that they were deserters.

"The following may be accepted as abundantly proven: That she is the mother of the soldiers; that her husband never did support her; that the income of her farm is inadequate to her support; that the three soldiers were killed at a time and place where strict discipline was unknown. The presumption is in favor of the widow. There is no question as to the woman's loyalty, poverty, and patriotism. She gave everything she had, and now has the poor-house staring her in the face. She asks the Government to give her the benefit of a possible doubt. I submit the claim with the unqualified recommendation that it be admitted."

And the same was approved by L. E. Payne, supervising examiner of the Knoxville district.

The evidence shows that the three sons were home on a short furlough. They were about getting breakfast in the morning; the house was surrounded by the rebels; the boys ran out of the house, when Bayliss and Josiah were shot down by the rebels. James was shot down some distance from the house. They were buried in one grave without a coffin. The house was also burned down.

Your committee are of the opinion that the soldiers were in the line of duty when killed, and that their mother should be allowed a pension, therefore recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1066.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3043.]

The Committee on Pensions, to whom was referred the bill (H. R. 3043) granting a pension to Lewis W. Scanland, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 3043) for the relief of Lewis W. Scanland, submit the following report:

It appears that petitioner enlisted April 18, 1832, for service in the Black Hawk war; that he served about thirty-eight days, and was honorably discharged with his comrades May 28, 1832. On March 14, 1884, petitioner filed his application for pension, alleging the incurrence of chronic diarrhea during the service above mentioned.

There is no record of his disability or treatment therefor, nor does claimant allege to have been treated while in the service. There is no mention of his disability at discharge.

Claim was rejected on ground of no record, short service, and claimant's inability to furnish satisfactory evidence to connect the alleged disability with his military service. To substantiate claimant's testimony in regard to alleged disability we have the affidavit of his comrade, S. W. Gaskell, who has known claimant since he was ten years old; enlisted with him, served and been discharged with him; knew that he was attacked with chronic diarrhea while in the aforesaid service; that he suffered severely with it after discharge and upon the route home, and that he suffered with it continually up to 1872, when affiant moved from the vicinity of claimant. Said Gaskell is the only member of his company whom claimant knows to be now living.

We also find the evidence of Col. John Thomas, of Belleview, Ill., who says that from the best of his remembrance claimant was attacked with diarrhea while in said service, and that a great many in that service were similarly attacked. Colonel Thomas also testifies to his belief in the truthfulness and uprightness of claimant.

Claimant testifies that the physician who treated him immediately upon his return home died many years ago. Other medical treatment of claimant is testified to by the following physicians: Henry L. Strong, who was his family doctor for ten years after September 9, 1848, and he knows him to have been troubled with chronic weakness of bowels both before and after September, 1848. Samuel Willard, who, for a few years about 1856, was claimant's family doctor, testifies:

"Claimant was subject to chronic diarrhea. He had several severe attacks, in which I was obliged to be up all night with him."

J. L. R. Wadsworth, who treated claimant in 1871 and 1872, testifies that he was subject to chronic diarrhea.

Also, affidavit of True Blake, who was a near neighbor of claimant from 1872 to 1883, and knew that he was subject to chronic diarrhea.

James Purviance also makes affidavit that he has known claimant for sixty years; was his neighbor before and after his service in Black Hawk war, and from the time

of his discharge up to 1872, when claimant moved from his vicinity, it was common report that he was suffering from chronic diarrhea.

Claimant is unable to produce evidence of any one except Gaskell and Purviance as to his condition at discharge, as all his old neighbors are dead or moved to parts unknown.

We recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1067.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6670.]

The Committee on Pensions, to whom was referred the bill (H. R. 6670) granting a pension to Susan Malone, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6670) granting a pension to Susan Malone, have had the same under consideration, and submit the following report:

Claimant is the widow of William Malone, late sergeant Company H, One hundred and tenth Regiment United States Colored Troops, who was taken as a prisoner of war September 24, 1864, and is supposed to have died in prison. Claim not allowed in Pension Office on account of claimant's inability to furnish the testimony required.

Anderson Crenshaw testifies that he was second sergeant in Company H, One hundred and tenth Regiment United States Colored Troops, and was acquainted with William Malone, who enlisted in said company on December 10, 1863, at Athens, Ala., and who was the husband of claimant; that soldier was sergeant of said company, and was captured by the enemy at Athens, Ala., in September, 1864. Affiant was also captured at the same time, and carried with claimant's husband and others to Mobile, Ala., where claimant's husband died some time during the following winter; that affiant acted as nurse in the hospital at the time of said soldier's death, and saw his body after he had died. Prisoner of war records show affiant captured at Athens, Ala., September 24, 1864, and recaptured by United States forces at Mobile, Ala., May 1, 1865.

Isaac Townsend testifies that he was a member of Company H, One hundred and tenth Regiment United States Colored Troops, and was acquainted with soldier (husband of claimant); that he became acquainted with him upon enlisting in said company, and that his wife, the claimant, a short time afterwards, visited him at Pulaski, Tenn., and frequently while said company was at Athens, Ala., and that affiant was with soldier when he was captured at Athens, Ala., in October, 1864, and with other soldiers was carried to Mobile, Ala., as a prisoner of war; said soldier was taken sick and sent to the hospital, and where affiant was informed he died; that affiant's husband, at the date of his capture, was sergeant of the company. Prisoner of war records show affiant captured at Athens, Ala., September 24, 1864. Muster-roll of Company H, One hundred and tenth United States Colored Troops for September, October, November, and December, 1864, reports Private Isaac Townsend (affiant) absent, "prisoner of war." May and June, 1865, present for duty.

A number of witnesses, both white and colored, testify to the fact of claimant's husband's enlistment in Company H, One hundred and tenth United States Colored Troops, and to his capture, and to his reported death while a prisoner of war.

Your committee are of the opinion that claimant has shown a clear title to a pension as the widow of Sergeant William Malone, late of Company H, One hundred and tenth Regiment United States Colored Troops, and recommend that the bill do pass.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1068.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6120.]

The Committee on Pensions, to whom was referred the bill (H. R. 6120) for the relief of Richard Honigan, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6120) for the relief of Richard Honigan, submit the following report:

The claimant, who served in Company G, Sixty-third New York Volunteers, from September, 1861, to September, 1864, is receiving a pension of $4 per month for gunshot wound in the right groin, and now asks an additional pension for rupture of right side received while on a retreat after the battle at Ream's Station, Va., in August, 1864. Claimant testifies that he received the rupture as stated in his application; that from ignorance and diffidence he concealed it from his comrades, and as it gave him no pain, he was not treated for it by the surgeon of his regiment. Many of the prominent citizens of Saint Joseph, Mo., speak in the highest terms of the integrity and truthfulness of claimant. It is shown that he was sound and free from hernia at time of enlistment by several reliable witnesses; that the disability existed at time of discharge, and has continued ever since, is proven by the affidavits of Dennis Curtin, G. Heckenlible, Patrick Coleman, and Dr. Thomas H. Doyle. The examining board at Saint Joseph, Mo., report:

"There is a femoral hernia on right side and just above the entrance of the ball. The protuberance is as large as a small hen's egg."

The claim was rejected in the Pension Office on account of the soldier's inability to prove incurrence in the service, there being no record of it and no medical treatment. The fact that he was free from the disability at the time of enlistment, that it existed soon after discharge, and claimant's evidence of its incurrence, supported by the strong indorsement of his personal character by many prominent men in the city where he has lived since discharge, renders it reasonably certain that the injury was received in service.

Your committee therefore recommend the passage of the bill.

The bill is herewith reported to the Senate, with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1069.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6452.]

The Committee on Pensions, to whom was referred the bill (H. R. 6452) granting a pension to Samantha A. Smith, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6452) granting a pension to Samantha A. Smith, submit the following report:

From the evidence submitted your committee find that claimant is the widow of Lewis Y. Smith, corporal of Company C, Sixteenth Indiana Volunteers, who enlisted August 6, 1862, and was discharged June 30, 1865. No application was made by the soldier, though the records show that he received a gunshot wound in both hips at the battle of Arkansas Post, January 11, 1863, from the effects of which he remained in hospital till the following August. He died in 1879 from pneumonia, but it is claimed that the fatal disease would not have resulted in death had it not been for his debilitated condition, resulting from an abscess, which it is asserted was the result of the wound.

A large amount of evidence has been submitted, and the case seems to have been so evenly balanced as to cause considerable hesitation on the part of the Pension Department as to its final action.

Dr. William Street, a physician of nearly forty years' practice, testifies—

"That he was the family physician of soldier from 1868 up to the time of his death; that soldier died of pneumonia after a sickness of eight days; that when he was taken with the latter disease he was just recovering from an abscess caused by an injury to hip, and but for his debilitated condition from said abscess his chances for recovery would have been greatly increased."

Dr. Street has been for many years the examining surgeon of the Pension Department.

Dr. J. H. Baxter, who was called in consultation, corroborates the above, and says he thinks there was some blood poisoning; that it was remarked that soldier would have died in a short time if he had not been taken with pneumonia. The special examiner who investigated the case says:

"Drs. Street and Baxter are both perfectly reliable men, and I have no doubt in my mind as to the justice of the claim."

Just what effect each disease had in producing the fatal result can never be known, but the benefit of the doubt in this case certainly ought to be given to the widow, for the soldier waived all claim to a pension, which he could have drawn for fourteen years, during all which time he suffered from the severe wounds received in battle.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1070.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6718.]

The Committee on Pensions, to whom was referred the bill (H. R. 6718) granting a pension to William H. Starr, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6718) granting a pension to William H. Starr, submit the following report:

Claimant was a member of Company D, Eighth Illinois Infantry, and filed his application for pension on October 10, 1882, alleging injury to drum of left ear by concussion at Shiloh, Tenn., and injury to back caused by explosion of a shell at Vicksburg, Miss., in May, 1863.

The Pension Office calls for the testimony of an officer as to incurrence, and surgeon as to treatment for deafness of left ear, which claimant says he is unable to obtain. He has filed affidavits of two comrades as to incurrence, showing that immediately after the battle of Shiloh claimant complained of deafness in his left ear. One of the witnesses, J. M. Honey, in a letter to the Commissioner of Pensions, in reply to inquiries of the Commissioner, says:

"I never heard his hearing called in question until after the battle of Shiloh. From that time until my discharge (in August, I think, 1864,) I always understood Starr got his hearing injured there. * * * I got my information this way: First, Starr always claimed after the battle that his hearing was injured there. Second, I was jarred until my nose bled, and am deaf in one ear when I have a cold, fever, or take medicine, and cannot distinguish the direction of sound when I hear it. Third, we were to the right a little, and were in front of some heavy guns there, and the firing was terrific. They opened the battery very sudden, and we were jarred and shook up generally. I was there, and I know Starr was, too."

Daniel N. Osborn, another comrade, corroborates the above. Both of these witnesses are vouched for as reliable men. Claimant cannot furnish medical evidence of treatment, as required, never having been treated; he was examined by Dr. Edmonson, at Denver, Colo., who could not give any treatment beneficial to his ear.

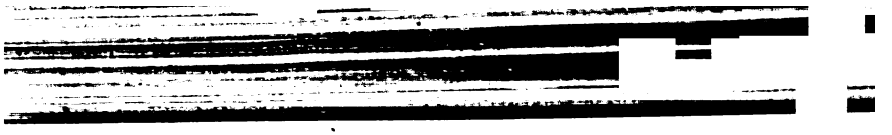
Several acquaintances and neighbors testify to claimant's soundness prior to his enlistment, and that he is now deaf in his left ear, and has been since his discharge. The board of medical examiners at Wichita, Kans., report on July 16, 1884:

"We find left ear-drum gone, with resulting total deafness, as shown by failure to hear tick of watch or loud conversation on closing right ear."

The evidence seems to establish that claimant was free from deafness up to the battle of Shiloh, and that he has been deaf in his left ear ever since.

Your committee therefore recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.



49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1071.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 6135.]

The Committee on Pensions, to whom was referred the bill (H. R. 6135) granting a pension to James W. Sanford, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6135) granting a pension to James W. Sanford, submit the following report:

The papers in this case show that claimant enlisted in Company G, Second Ohio Volunteers, September 5, 1861, and was discharged August 12, 1862, upon surgeon's certificate of disability for chronic asthma of long standing, and aphonia which had existed since January 1, 1862. He had spasms of the glottis amounting almost to suffocation.

The application for pension, made in 1878, was rejected on the ground that the disability existed prior to enlistment. On this point Dr. D. H. Cole, whose reputation is vouched for by the postmaster as "the very best," testifies that his acquaintance with claimant extends from 1845, and that as family physician of claimant's father he knows of his own personal knowledge that the soldier was free from all chronic or deep seated disease of spasms or epilepsy, and that at the time of enlistment he was a sound and healthy man, capable of making a full hand at manual labor; that in March, 1862, when at home on furlough, he found him suffering with extreme deafness of the left ear, spasms of the glottis, being at that time unable to speak above a whisper, and that upon a careful examination he pronounced him injured for life. The continuance of the disability is shown by the evidence of Dr. D. B. John, C. C. Reister, H. C. Taylor, and John Beard, all of whom are reported as men of high standing.

The examining surgeon at Evansville, Ind., reports:

"I find this man suffering from epilepsy. The respiratory muscles are mostly affected. After a few slight gasps the muscles become fixed for from two to three minutes, countenance presenting a most distressing picture; then all at once he will take a deep inspiration and implore for relief. Has these attacks at times often in twenty-four hours; then again is free for two or three weeks. Says it is the result of an attack of pneumonia during service. Drs. Harvey and Compton happened to be in my office during the examination, and coincided in the above. In my opinion he is totally disabled."

Accepting the report of the surgeon in the certificate of disability upon which he is discharged, that asthma existed at enlistment, which, however, is flatly contradicted by his family physician, who had known him intimately for sixteen years, your committee still believe that his present disability was largely the result of his Army service, and therefore recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1072.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7614.]

The Committee on Pensions, to whom was referred the bill (H. R. 7614) granting a pension to Hezekiah Tillman, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7614) granting an increase of pension to Hezekiah Tillman, submit the following report:

Claimant was a private in Company B, Sixth Indiana Volunteers, having enlisted September 3, 1861, and served until September 22, 1864. In 1866 he made application for pension, alleging gunshot wound of right ankle, which was allowed, to date from discharge from service, at $2.66⅔ per month. In 1872 he applied for an increase, alleging that at the battle of Stone River he lost an eye by the bursting of a percussion cap, a part of it entering the eye and destroying the sight; also alleging that he received a shell wound in left knee. The hospital records show that he was treated for three months for "wound," but does not describe it.

The lieutenant-colonel testifies positively to the injury to the eye, and the surgeon of the regiment as to treatment of the wound of the knee. The surgeon is dead, and claimant is unable to furnish corroborating evidence. The fact that the three disabilities were not mentioned in the first application for a pension casts a cloud upon the claim; but the soldier is evidently an uneducated man, and his attorneys had no personal acquaintance with him. The examining boards describe all the disabilities.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1073.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7073.]

The Committee on Pensions, to whom was referred the bill (H. R. 7073) granting a pension to Mary S. Woodson, have examined the same, and report.

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7073) granting a pension to Mary S. Woodson, submit the following report:

We find that claimant is the widow of Henry B. Woodson, a private in Company E, Twenty-sixth Regiment of Missouri Volunteers. The soldier enlisted September 23, 1861, and was discharged October 30, 1863, upon surgeon's certificate of disability, which stated that he was totally unfit for duty of any kind on account of valvular disease of the heart. The hospital records show that he was treated in July, 1862, for gunshot wound and rheumatism. The evidence submitted shows that the disease of heart continued after his discharge so as to unfit him for manual labor; that the family were very poor and unable to employ a physician. About the 24th of March, 1874, the soldier left his home to find a farm to rent, and was never heard of after that. Claimant testifies that some time afterwards she learned that a skeleton of a man was found near Sullivan, Mo., on an unfrequented road. Two comrades testify to the incurrence of heart disease in the service. He was discharged after twenty-five months' service for valvular disease of the heart of an aggravated form, being totally unfit for duty. Several neighbors testify to his feeble condition up to and at the time of his disappearance. The only reasonable conclusion is that the soldier died on the road of heart disease, alone and uncared for. The widow is in very destitute circumstances.

Your committee realize that under existing laws the Pension Office can grant no relief, but, believing it to be a meritorious case, they recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1074.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7075.]

The Committee on Pensions, to whom was referred the bill (H. R. 7075) granting a pension to Orson W. Sears, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7075) granting a pension to Orson W. Sears, submit the following report:

Claimant enlisted in Company B, One hundred and twenty-eighth Ohio Volunteers, February 19, 1862, and was discharged February 28, 1865. In 1876 he applied for a pension, alleging varicose veins of left spermatic cord, caused by a fall at Johnson's Island about March 20, 1863. This was rejected on the ground of no record and no satisfactory evidence of incurrence in line of duty. Claimant in his affidavit states that the injury was received by a fall from a plank walk while standing guard at night.

Capt. L. W. Bailey, of Company D, same regiment, testifies to the incurrence of the injury; that he fell on the walk around the prison, which incapacitated him for duty some time; that he formerly belonged to same company as claimant, but at time of fall was captain of Company D, same regiment; that he knows of these facts, because he was on duty at same place when he had the fall.

Dr. T. Woodbridge testifies, March, 1879, that he treated him about March, 1863, for varicose veins of the spermatic chord. Three years and a half after making this affidavit he writes that he has no recollection of treating him, though he may have done so.

Dr. J. C. Dunnington testifies to treating claimant from 1865 to 1876 for varicose or ruptured veins of the scrotum. P. Attleberry corroborates the above.

Dr. R. H. Dunnington testifies that claimant was under his care in March, 1876, and was suffering from varicose veins of left spermatic chord; that during each year from that time to January, 1879, the spermatic chord completely filled the external ring, causing heavy dragging pains when any active exercise was taken.

David E. Attleberry and Fayette Ford testify to being near neighbors since November, 1865, and that he has suffered from the disability named and that he has been unfit for manual labor. Have seen and conversed with him almost daily.

The only reasons for rejection seem to be that claimant cannot show that he was in line of duty, and that the surgeon apparently contradicts his affidavit by saying, nearly four years after he made it, that he cannot remember treating him in service. The first objection can be answered by the fact that the soldier was on guard, alone, and no one saw him fall. The injury was not severe enough to compel him to call for help. That Dr. Woodbridge should have forgotten that he treated claimant seems unaccountable, when less than four years before he made oath to it. He further de-

clares in 1882 that he had forgotten that he ever made the affidavit in 1879, and yet there seems to be no question as to the genuineness of his signature.

The medical examiners in 1880, 1881, and 1884 describe the disability, and rate him as one-half disabled. If the evidence submitted can be accepted, and there is nothing shown to throw any doubt around it, the soldier received his disability in the service, it existed at discharge, and has continued ever since.

Your committee recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1075.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7222.]

The Committee on Pensions, to whom was referred the bill (H. R. 7222) granting a pension to Callie West, have examined the same, and report:

That an examination of the proofs in this case has satisfied the committee that the report of the Committee on Invalid Pensions of the House of Representatives is correct. It is adopted, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7222) granting a pension to Callie West, have had the same under consideration, and submit the following report:

The claimant is the widow of Burris C. West, sergeant Company G, Sixty-sixth Regiment Illinois Infantry, who enlisted October 3, 1861, discharged September 2, 1864, and died January 8, 1883.

Claim rejected by the Pension Office on the ground that there is no evidence of origin of fatal disease, and claimant's declared inability to furnish the same.

The Surgeon-General's report shows soldier treated in hospital April 11, 1864, for cold, and continued to April 15, 1864.

A. W. Porter and A. D. Carson testify as to soldier's enfeebled condition shortly after his discharge and his complaining of great pain caused by being afflicted with piles contracted while in the service of the United States.

Dr. J. C. Sparks testifies:

"I have been acquainted with Burris C. West since his childhood and believe him to have been a sound man when he went into the Army. After the close of the war he remained South, at or near Green Hill, Ala. He came north in the spring of 1882 for medical treatment; was suffering from disease of the rectum, and was under my treatment during the last four months of his life. He died January 14, 1883, of malignant ulceration of the rectum."

The Adjutant-General reports soldier as—

"Sergeant of Company F, First Western Sharpshooters, from the 3d day of October, 1861, to February, 1862. Designation changed to Company G, Fourteenth Missouri Volunteers, Western Sharpshooters, to December 31, 1862. Designation changed to Company G, Sixty-sixth Illinois Volunteers, April 30, 1864. Mustered out September 2, 1864."

The above record shows a long, faithful, and arduous service, and one likely to have caused piles, from the aggravated form of which soldier died.

Your committee are of the opinion that the widow is entitled to a pension, and therefore recommend the passage of the bill.

The bill is herewith reported to the Senate with a recommendation that it do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1076.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4730.]

The Committee on Pensions, to whom was referred the bill (H. R. 4730) granting a pension to Mary Murphy, have carefully examined the same, and adopt the report of the House, and report in favor of the passage of the bill.

That Mary Murphy is the widow of Thomas Murphy, late a private of the United States Marine Corps, and her application for pension was rejected by the Pension Office on the ground that the immediate cause of her said husband's death was typhoid fever and gastritis, as shown by the death certificate of the health officer of Washington, D. C.

It appears from the evidence that the said Thomas Murphy, while in the service of the United States as a marine in the year 1866, contracted pneumonia from which he never recovered.

Abbie Paul and Anna Parker, who knew him well, swear:

"That from the time Murphy came home he coughed badly; that the cough never left him; that the difficulty in his chest seemed to grow worse; he became weaker until he finally died."

Arthur Flynn, a brother marine, swears:

"Murphy was disabled in service; that on account of illness he was sent to hospital, and never recovered his health, and during all the time had a bad cough, and raised a large quantity of phlegm."

Dr. G. S. Magruder. of Washington, D. C., swears:

"That he attended Thomas Murphy for pneumonia about March, 1873, and attended him through the attack."

Dr. J. E. Bracket, of Washington, D. C., swears:

"That he attended Murphy; that his condition was bad, having contracted pneumonia in the service, from which he never fully recovered, and that he died from the effects of said disease."

Dr. Bracket, at the time of Murphy's death, gave a certificate for burial to the effect that he died of typhoid fever, and upon this and the certificate of the health officer, the Pension Office rejected the widow's application for pension.

In a letter dated March 4, 1886, to Hon. W. H. Perry, Representative in the present Congress from the State of South Carolina, Dr. Bracket frankly acknowledges his error in issuing said death certificate, and is clear and positive in stating that Murphy died of consumption contracted in the United States service. The records of the Washington naval hospital show that he was there treated for "pnuemonia; duty exposure."

From the testimony herein given, the committee is of the opinion that Thomas Murphy died of disease contracted while in the service of the United States as a marine; and therefore they report back the bill, and recommend that the same do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1077.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. SEWELL, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 2355.]

The Committee on Pensions, to whom was referred the bill (S. 2355) granting a pension to Edward R. Shubrick, have examined the same, and report as follows:

The examination of the papers in this case discloses that Edward R. Shubrick, late a midshipman of the United States Navy, entered the service on February 9, 1849, and was discharged on April 26, 1854.

In his declaration for pension he alleges disability arising from chronic diarrhea while attached to, and in the line of duty aboard of, the U. S. S. Plymouth.

In support of his claim he deposes before the special examiner, H. T. Johns, that he contracted chronic diarrhea aboard the Plymouth while on her way to join the Japan expedition. He was on the sick list nearly all the way from Norfolk to the island of Madeira, where he was landed and ordered home as sick and unfit for duty. On reaching the United States he was granted consecutive leaves of absence, and in fact never did any duty after that, and in April, 1854, his resignation was accepted.

While aboard the Plymouth he was treated for the disease by the surgeons of the ship, but remembers only the name of one, Surgeon Otis. His papers and warrant were burned some years ago in the fire which destroyed the station-house in Camden, which prevents him from giving the names of all the surgeons who treated him for the alleged disease while in the service. Their uniform declaration, however, was that the disease rendered him unfit for duty.

After his resignation he was treated by Dr. William D. Brinckle, his family physician, until the latter's death. He was treated by him for diarrhea and nothing else. Dr. O. H. Taylor was his next physician, who continued until he died, about 1868, and he was followed by his son, Dr. H. G. Taylor, who still continues the claimant's physician. The treatment by all these medical gentlemen of the claimant has been for the alleged disease of chronic diarrhea. He has been compelled to refuse profitable situations and accept such employment as the disease would best allow him to work at. He has been confined to his bed and lost much time by reason of severe attacks of the disease, and at certain seasons of the year has to go through a medical course as a preventive to such attacks.

Emily R. Shubrick, the wife of claimant, testifies to the same state

of facts, her knowledge dating from 1854. Her father was Dr. Brindle, who first treated the claimant.

Margaret Mulholland, at the time of her deposition, in 1885, had been a servant in the family of claimant for twenty-two years. She testifies to his having suffered from this disease all these years; that it frequently kept him home from his business; has knowledge of all the physicians named in the foregoing attending him.

Marmaduke B. Taylor, son of Dr. O. H. Taylor, of Camden, and intimate with claimant for thirty-five years, corroborates the statements of claimant.

Dr. H. G. Taylor testifies as to his father's and his own treatment of claimant, through a period of many years, for chronic diarrhea.

Other friends and neighbors add their testimony to the foregoing statements.

Further testimony is given showing the high personal character and standing of the claimant, and, under the long and close examination of the special examiner referred to, the conclusion reached is a recommendation for the admission of the claim.

Your committee are of the opinion that this claim is a valid one, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1078.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5472.]

The Committee on Pensions, to whom was referred the bill (H. R. 5472) to increase the pension of Henry Brooks, have examined the same, and report:

Your committee have carefully considered the facts in this case, which are stated in the following report of the Committee on Invalid Pensions of the House of Representatives (House Report No. 1531). They adopt the same, and recommend the passage of the bill.

The military history of this soldier, as disclosed in the record, is of an unusually creditable character. He enlisted as a private in Company B, Fifth Vermont Regiment, and in battle at Savage Station, Va., June 29, 1862, received a severe gunshot wound in the right leg, on account of which he was discharged October 14, 1862, and pensioned at the rate of $8 per month. December 8, 1863, he surrendered this pension and re-enlisted in his old company and regiment. May 5, 1863, at the battle of the Wilderness, he was again wounded, near his left shoulder, and was discharged August 1, 1865. Hospital records show that he was treated for remittent fever and for pneumonia in November, 1864.

He is now receiving pension of $8 for his gunshot wound, but claim on account of disease of eyes is rejected.

In his application claimant alleges that he was taken with a disease of the eyes, caused by exposure, and by getting wet and taking cold while in the line of duty at Brandy Station, Va., in March, 1864. He is unable to furnish medical testimony of treatment in service, but he presents the testimony of Lieut. Charles B. Williamson that claimant was taken with a disease of the eyes at the time and place before stated; that his eyes became sore and inflamed, which affiant believes was caused by the privations and hardships which he underwent while in the line of duty; that before he was taken with this disease claimant was free from any disease of the eyes so far as he (Williamson) was able to judge.

Dr. Frederick P. Wheeler testifies that—

"He has been acquainted with claimant for the last twenty-five years, and that he was claimant's family physician for a number of years previous to his entering the service of the United States, and has been since; that he was a sound, healthy person, and free from any disease of the eyes up to the time he enlisted in the service as aforesaid; that very soon after he was discharged from the service he consulted me (affiant) in regard to a difficulty of his eyes; that I found on examination he had inflammation of the eyes, which I considered had been caused by exposure and hardships while in the Army; that I used such remedies as are generally used in inflammation of the eyes, but without any marked benefit; that the disease of the eyes has been growing worse gradually, and has resulted in opacity of the cornea of both eyes; that it is with difficulty he can discover objects at all with one eye, and that the other eye is badly affected in the same manner.

The first medical examination made under the claim was by Erasmus D. Farmer,

examining surgeon, who reported August 10, 1867, "impaired vision from ptergium of both eyes, which commenced while in the service."

January 25, 1870, Erasmus D. Warren, examining surgeon, reports:

"He is now suffering from inflammation of both eyes, which he claims is the result of exposure and fatigue while in the service of Government. There is at the present time general redness of both eyes, constant weeping when exposed to the air, engorgement of the vessels leading to the cornea. There is at present the incipient symptoms of opacity, more marked in the left eye than in the right. There has been a decided increase of the disease of the eyes for the past year. Should the trouble continue to increase as it has done, it might eventuate in opacity of the cornea of both eyes."

Subsequent examinations, in 1871, 1873, 1874, 1875, and 1882, show continuance and increase of disease of eyes. The last report shows "chronic conjunctivitis of both eyes, opacity of corneas, left eye nearly obscured."

In 1871 disease of eyes was rated at one-fourth, in 1875 three-fourths, while in 1882 the disability is stated as we have quoted, but without any rating. This bill increases his pension from $8 to $18. We think his disease of eyes was contracted in the service, and that he is fairly entiled to the increase asked for.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1079.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3054.]

The Committee on Pensions, to whom was referred the bill (H. R. 3054) granting a pension to Sylvester Root, have examined the same, and report:

The evidence in this case is briefly stated in the annexed report of the Committee on Invalid Pensions of the House of Representatives (House Report 1338), which your committee adopt, and recommend the passage of the bill.

Sylvester Root enlisted in Company E, Twenty-seventh Massachusetts Infantry, October 1, 1861, and was discharged for disability August 3, 1862. He filed declarations for pension September 10, 1863, and June 5, 1878, alleging rheumatism, contracted at New Berne, N. C., about last of June, 1862. His claim was rejected on the ground that alleged disability existed at the time of enlistment.

The evidence in the case is as follows:

Samuel Camp, assistant surgeon, Twenty-seventh Massachusetts Infantry, testifies that he examined all enlisted men at Camp Reed, Massachusetts; that among those examined was Root; that he saw nothing about soldier that would cause him to suppose him unsound or unfit for service as a private soldier.

Charles E. Heath, M. D., testifies that he was the family physician of Sylvester Root for over two years prior to his enlistment, and, to the best of his knowledge and belief, at that time he was a sound, able-bodied man, and not subject to rheumatism.

William F. Harrington, lieutenant Company E, Twenty-seventh Massachusetts Volunteers, testifies that in June, 1862, at New Berne, N. C., Root contracted rheumatism, caused by a severe cold on a very rainy night, while on duty at Bachelor's Creek, North Carolina. Affiant was present at time and place named.

N. L. Snow testifies that he has known claimant for thirty years, and that when he returned from Army he was suffering from rheumatism of left leg and foot, the latter having grown out of shape on account of disease; that he is quite lame, and suffers much pain when walking or taking exercise; that he has lost three-fourths of his time on account of same, saving from four to six years after he came home, when he labored about one-half the time. Affiant has worked for him and with him; knows he was treated by Dr. Pendleton for about sixteen years for said disease.

William E. Latham has known claimant twenty-five years, and testifies about the same as the last affiant.

Cyrus H. Pendleton, M. D., testifies that by reference to his books finds he has been family physician of claimant about sixteen years; treated him for rheumatism fourteen or fifteen years ago. The treatment has been of no permanent benefit; has probably seen him on an average once in two or three months, and thinks he is not able to perform more than one-half, perhaps not more than one-third, the labor of an able-bodied man—not able to do as much now as some years ago.

The report of S. G. Risley, examining surgeon, Rockville, Conn, is as follows:

"The marks of rheumatism are on left hip, knee, and foot; cartilaginous and ligamentous deformities in above localities; the second joint in great toe much deformed

and dislocated outward, throwing second toe upward, which is not only useless but a very troublesome part; cannot walk except with a cane and limping."

Your committee are of opinion that if his disability did exist at the time of enlistment, as claimed, that it was greatly exaggerated and increased by his service. The Government accepted him, and the evidence all shows he did his duty to the best of his ability, and obeyed his orders like a good soldier, shirking no duty imposed on him.

They therefore recommend the passage of the accompanying bill.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1080.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. WILSON, of Maryland, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 4023.]

The Committee on Pensions, to whom was referred the bill (H. R. 4023) granting a pension to Caroline Sturtz, have carefully examined the same, and report favorably thereon, and recommend its passage, adopting the subjoined favorable report of the House Committee on Invalid Pensions as the basis of their action.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4023) granting a pension to Caroline Sturtz, widow of Jacob Sturtz, deceased, late of Company G, Twentieth Maryland Volunteers, having had the same under consideration, respectfully report:

That claimant's husband was pensioned for wound of the neck and lower jaw, and died April 26, 1872, of apoplexy. The medical referee rejected the widow's claim because "there is no reason at all to refer to the wound as a factor in the case. The soldier died, I have no doubt, of cerebral apoplexy, in which the wound has no agency at all." The Secretary of the Interior, to whom this case had been appealed, in his review of it, states:

"The evidence in this case shows that the deceased soldier was a sufferer from a severe gunshot wound of face and lower jaw, and his health by reason thereof has been declining since his discharge from the service; that at the time of his death he was engaged in working over a fire, it being a very warm day, and it is alleged that in consequence of his debilitated condition, resulting from said wound, was stricken down and overcome with the heat, and that the effects of the heat, together with the wound, caused his death. There is no evidence in the case tending to show that the soldier's sudden death was connected as a result with the gunshot wound on account of which he was pensioned. Dr. Rutledge states that had he (the soldier) not been suffering with the wound aforesaid affiant is clearly of opinion he would not have died, as the work or the heat of themselves were not sufficient to have caused his death."

As your committee has had occasion frequently to observe, it is often a matter of extreme difficulty to trace the consequences either of a wound or a disability through many years of suffering until it results finally in death, and to know exactly how much to attribute to the wound or how much is due to extraneous causes. They are assisted in this case very much by the clear evidence given by Dr. Jarrett, who testifies as follows:

"I was called on to attend Jacob Sturtz on or about the 14th of June, 1865, for wound received while in the Army; said wound was situated in the lower jaw, and was very extensive, involving nearly one-half of the jaw. Caries of the bone took place and a greater part of the bone was discharged in the form of pus, mingled with fragments and ossicula of bone; and I further state that the said wound was, in my judgment, the primary cause of the said Sturtz's death."

Dr. Rutledge, who was also decedent's physician, states "that he was working over a fire, it being a very warm day, and death was caused partly by the wound and partly by the heat." Here is the evidence of two attending physicians, one of whom

states directly that apoplexy was the result of the wound, and the other that it was partly the result of the wound and partly the result of excessive heat. On general principles, it may be stated that the direct effects of excessive heat in any given case are dependent largely upon the physical condition at the time of the person who is subjected to it; so that a degree of heat which may be innocuous to a perfectly robust man may produce death in a debilitated and broken-down constitution. Applying this principle to the case in hand, your committee find no difficulty in coming to the conclusion that soldier's death was the result of injuries received in the service, and they therefore recommend that the bill do pass.

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49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1081.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. WILSON, of Maryland, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 5438.]

The Committee on Pensions, to whom was referred the bill granting a pension to Elias Sheads, have carefully examined the same and report favorably thereon, recommending its passage, and adopting as the ground of such recommendation the subjoined report of the House Committee on Invalid Pensions, which is as follows:

That they have examined this bill and find the following statement to be correct in every particular. The statement is presented in the form of a petition, numerously signed, and the facts attested by the most prominent and reliable citizens of Gettysburg, in which place claimant was born, and where he has resided during his entire life. It may also be stated that the member of your committee to whom this bill was referred is personally conversant with the facts of the case and knows them to be true.

The petitioner represents that he is seventy-seven years of age, and that by reason of age and the infirmities consequent thereon he is unable to earn a subsistence by manual labor, and that he is wholly without means of support except such aid as he receives from his sole remaining daughter; that he has filed an application for pension, to which he believes himself justly entitled, but that by reason of lapse of time and death of witnesses he is unable to present such testimony as is required by the Pension Department, and that he therefore presents his petition to Congress in the firm expectation that it will afford him the desired relief.

All of his sons, four in number, have been either killed in battle or have died from wounds or disease contracted in the line of duty.

His son Elias was a member of Company F, Eighty-seventh Regiment Pennsylvania Volunteers, and was killed in action in the battle of Monocacy, July 9, 1864. Another son, David M., was a member of the same company, and contracted pulmonary disease whilst in the service, from which he died five years after the close of the war. A third son, Robert, was a private in Company K, First Pennsylvania Reserves, and was severely wounded in the face and neck in the Peninsula campaign, and died from the effects of said wounds shortly after the war. His fourth and youngest son, Jacob, was a private in Company B, Twenty-first Regiment Pennsylvania Cavalry, and died in hospital at City Point, Va., in 1865, whilst in the Army.

He further represents that these sons contributed to his support before they enlisted, and continued to assist him during their service.

Your committee scarcely think it necessary to enlarge upon this simple statement of facts. Here is a man, now old and feeble, who has lost all of his sons in the service of his country. He did not even withhold his youngest, the Benjamin of his house and his heart, to be a stay and support in his old age, but yielded him also. In the many records of self-sacrificing patriotism which have come under the notice of this committee, they recall none more entire and unreserved, nor any which it can commend more heartily to the favorable consideration of this House.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1082.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 778.]

The Committee on Military Affairs, to whom was referred the bill (S. 778) "to equalize the bounties of soldiers, sailors, and marines of the late war for the Union," have had the same under consideration, and one of its members is by consent permitted to submit the following report:

This subject has been under consideration since the Thirty-ninth Congress. At this time, immediately after the close of the rebellion, it was so well understood and the justness of paying these bounties so universally recognized that the first bill passed the House of Representatives (May 25, 1866) by the very decided vote of yeas 139, nays 2. In the Senate this bill was reported by the committee with an amendment, and action thereon was postponed by forcing it to give way to the appropriation bills July 20, 1866. Congress adjourned July 28, and there was no opportunity to have it considered.

At the second session of the same Congress the bill was again introduced and passed the House, but was not reached in the Senate. In the Fortieth Congress the bill was introduced in both houses in all three sessions of that Congress, but no action was taken beyond the committees.

In the Forty-first Congress, second session, a bill equalizing bounties passed the House and was not not reached in the Senate.

Several different bills were presented in the Forty-second Congress, all with the same object in view, but for some reason were not considered beyond committee.

In the Forty-third Congress this bill passed both houses of Congress, and but for the non-concurrence of the President would have become a law.

Some of the reasons for non-approval, assigned by the Executive at that time, were that the depleted condition of the Treasury would not warrant the payment of so large a sum of money. No such reason can be assigned at this time. The country can well afford to meet an obligation assumed twenty-five years ago, and it should not be longer deferred.

Again, in the Forty-fourth Congress numerous bills of like character were introduced in both houses. On June 20 it passed the House. On June 26 the Senate Committee on Military Affairs reported the bill H. R. 58 with an amendment and recommended its passage. During this

session it was called up six different times and finally, on March 3, 1877, the amendments of the committee were concurred in, but the bill was postponed for want of time to give it the proper consideration.

Seven different bills relating to the same subject were introduced in the House the first session of the Forty-fifth Congress, and an effort was made to suspend the rules that these bills might be considered, but it was not successful.

In the first session of the Forty-sixth Congress five different bills were introduced in the House and one in the Senate, none of which were considered beyond committee.

At the second session a majority and minority report were submitted; the majority favoring the bill H. R. 5599.

Again, in the Forty-seventh Congress, first and second sessions, eight different measures were presented, each substantially having the same purpose in view, but no reports from committee appear to have been made.

In the last Congress (the Forty-eighth) seventeen bills were presented in the House and Senate, each seeking to reach the same result.

Your committee again permit their chairman to report this bill to equalize the bounties that it may have a fair consideration on its merits.

It can scarcely be denied that there is due the earlier defenders of the Union a bounty which has been withheld from them by non-action of Congress, as well as many who were mustered out only a few days before expiration of their term of service, and thereby deprived of the bounty.

It cannot be denied that those who responded to their country's call in the early stages of the rebellion should receive Government bounty equal to those who enlisted after September, 1863.

The object and intention of this measure is to equalize the bounties in a way that each and every person who served his country faithfully, and who can show an honorable discharge for his service, may receive, in bounty, his just due.

It is not intended to increase the compensation of those who received the limit of bounty recognized later on, but simply to do justice to all soldiers who, by gross inequality in the payment of bounties, have been deprived of their just reward.

It is a fact that many who enlisted during the first two years of the rebellion have received little or no bounty, while those who enlisted after that time have in most cases been fairly dealt with in this respect.

Those who were among the first to enlist have not received even that which was assured them at the time of enlistment. It is true a very large majority of the soldiers enlisted from patriotic motives, without regard to what bounty they were to receive, but this should not militate against them in the bestowal of the Government's bounty. Governments can well afford to be generous in rewarding those who come to its defense in the hour of its greatest peril. It can well afford to reward patriotism when it comes to its rescue voluntarily. It can well afford to keep its faith with the brave men who made every sacrifice that the Union might be preserved. It is a wise policy to be honest and just with the old soldiers who responded so promptly to the President's call for troops.

On more than one occasion the obligations of the Government with respect to bounties have been acknowledged by acts of Congress. This fact is so plain that it will not admit of a doubt. July 4, 1864, Congress passed a law providing for the payment of bounties in a manner substantially as proposed by this bill. It proposed and did pay bounties at

the rate of $8.33⅓ per month, or $100 for the first year's service, $100 for the second year, and $100 for the third. This act applied *only* to those who enlisted *after* that date—July 4, 1864.

At the beginning of the rebellion we find that A, who enlisted and served twenty-three months or less, received nothing whatever in bounty, unless discharged for wounds received in line of duty, while B, who served twenty-four months or more, received bounty at the rate of $8.33⅓ per month for his service. The inequality and injustice of this must be apparent to all.

By this bill it is proposed to compensate by bounty, so far as the obligations of the Government may go, those who were among the first to respond to their country's call. It is just, fair, and right to do this. Nothing more is asked; nothing less should be given. A money consideration is but small compensation to those who rendered such valuable services at the most critical period of our history.

Various estimates have been made as to the amount of money that will be required to pay these long-deferred bounties. It is hardly justice to these patriots to refuse or defer the payment for any such reason as this. Duty demands that the Government keep its faith with this noble band of Union patriots, many of whom slumber in the grave which stands as a monument to their fidelity and bravery; to the living, whose maimed and diseased bodies speak of the tortures and hardships which to this day they endure; to the widows and orphans who were left alone in the world to suffer the privations consequent to their condition.

The sum that will be required to meet this obligation of our Government cannot be large. Whatever it may be, its distribution, in payment of an honest debt, will be the means of relieving a vast amount of suffering among the old veterans, who can have but few years before them to enjoy what comfort it may afford them.

Your committee desire to embody in this report and do reiterate the sentiments of the Hon. Philip Cook, of Georgia, one of the most gallant and distinguished soldiers of the late Confederate army, as contained in his report of March 11, 1876, viz:

> It is true that the embarrassed financial condition of the country and the paralysis in business may well cause Representatives to reflect seriously upon all measures involving large appropriations of money, but this is not a sufficient argument against the passage of this bill. The Government, in respect of these bounties, is a debtor, and while she may fairly examine into the justice of particular cases, yet duty and good faith require her to pay them. The Government is better able to pay these just demands than those entitled thereto are to lie out of them.

In conclusion, I most earnestly appeal to the sense of justice and to the patriotism of the people's representatives to no longer defer the payment of these bounties, and let it be known to the people that we have, although many years in reaching a conclusion, kept our faith with those who have not heretofore been properly recognized in the distribution of bounties for services which were invaluable at the time they were rendered.

Your committee have given its consent that this bill be reported without recommendation.

I, therefore, for myself, report back the bill and earnestly recommend the passage of the same.

Respectfully submitted.

JOHN A. LOGAN.

49TH CONGRESS, 1st Session. } SENATE. { REPORT No. 1083.

IN THE SENATE OF THE UNITED STATES.

MAY 13, 1886.—Ordered to be printed.

Mr. MILLER, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 2053.]

The Committee on Finance, to whom was referred the bill (S. 2053) for the relief of Chester A. Arthur and William H. Robertson, late collectors of the customs of the district of the city of New York, beg leave to submit the following report:

Chester A. Arthur was appointed collector of customs at New York City December 1, 1871. At the close of business on the 21st day of January, 1876, the cashier, William D. Robinson, reported the coin $5,000 short. Skilled detectives were immediately employed, but up to this time no one has advanced even a theory which was considered worthy of attention, and it was, and will probably ever be, a mystery, in regard to which nothing was ever settled except the bare fact that a $5,000 coin certificate had either disappeared, or by some unaccountable error had never been received.

Your committee would further state that on assuming the collectorship Chester A. Arthur found in office Samuel G. Ogden as auditor of the custom-house. Auditor Ogden had been appointed June 1, 1841, and had faithfully discharged the trusts imposed upon him, the accounts as rendered by him having been closed as correct by the Treasury Department, under the bonds of Collectors Curtis, Van Ness, Lawrence, Maxwell, Bronson, Redfield, Schell, Barney, Draper, King, Smythe, Grinnell, and Murphy; that said Ogden died September 10, 1877, Chester A. Arthur being still collector. During the thirty-six years the said Ogden was auditor he correctly accounted for $3,300,000,000 collected and $180,000,000 disbursed; that the said auditor himself in person during his official life received and disbursed moneys from the proceeds of sales of unclaimed merchandise and prepared the accounts thereof; that some time after his death an apparent discrepancy was discovered in such accounts, for Chester A. Arthur's term of office, of $3,436.88 according to the adjustment by the accounting officers at Washington. This apparent discrepancy was not discovered till after the death of Auditor Ogden, and it is just to presume that it could be made satisfactorily to disappear but for his death. Your committee further state that all of the accounts of the said Chester A. Arthur for his two terms of office, nearly seven years, have, except as to the items herein mentioned, been adjusted and closed on the books of the Treasury Department, covering a total of receipts of $861,131,198, and of disbursements of $39,912,213.

A bill granting Collector Arthur the relief now asked for passed the Senate during the second session of the Forty-sixth Congress, but failed to receive action in the House. Since that time up to the present Congress, the said Chester A. Arthur has been Vice-President and afterwards President of the United States, and for evident reasons did not petition Congress for his relief.

While the Hon. John Sherman was Secretary of the Treasury he wrote a letter exonerating Collector Arthur from all personal responsibility and expressing the opinion that he ought to be relieved by Congress.

Your committee, therefore, recommend that the proper accounting officers allow Chester A. Arthur in the settlement of his accounts a credit of the sum named in the bill, $8,436.88.

This committee would further state that William H. Robertson was appointed collector of customs for the district of the city of New York on the 25th day of July, 1881. The facts in this case are as follows:

The said Collector Robertson in assuming his office retained, by reason of the great trusts confided to them, the persons who had been appointed by his predecessors in the cashier's department. During his term of office certain shortages in his cash receipts were discovered, the last one on the 12th day of March, 1883, amounting in all to $13,094; that the secret service officers of the Government, in conjunction with Pinkerton's detective force, inquired into the matter at length, but without fixing the responsibility for the loss upon any particular person or persons. Collector Robertson in his memorial to Congress states that, acting upon his own impressions, he dismissed from service one of his attachés who subsequently died; that another attaché resigned and afterwards committed suicide; that the cashier, James Hoffman, who had been in office many years, was an upright and honest man, and his death, in the opinion of Collector Robertson, was hastened by the loss occurring in his department and his inability to locate the responsibility.

During the administration of the office by Collector Robertson the receipts by him amounted to $549,729,636.59, and the disbursements to $35,404,265.19, and it does not appear that there is any discrepancy in any of his accounts, except the shortage heretofore mentioned.

In view of these circumstances, your committee recommends that the proper accounting officers allow William H. Robertson a credit for the sum named in the bill, $13,094.

It therefore seems to this committee that both of the petitioners for whom relief is asked in this bill were the victims of fraud or errors against which they could not reasonably have protected themselves, and therefore this bill (S. 2053) is reported back favorably.

The following are a few cases of similar legislation:

The Forty-seventh Congress authorized and directed the Secretary of the Treasury to credit Francis E. Spinner, late Treasurer of the United States, with the sum of $47,097.65, amount of deficiency of June 2, 1875; he was also authorized and directed to pay to the Treasurer of the United States the sum of $650.61, to reimburse said Treasurer for an amount appearing on his books as a deficiency.

In the Forty-seventh Congress the Senate passed a bill granting relief to Thomas B. Shannon, collector of customs at San Francisco, Cal. He had signed a check for $4,777.84, to which the countersignature of the naval officer had been forged, and had paid over the amount of the forged check to the assistant treasurer.

In the same Congress the Senate passed a bill granting relief to Frank

Soulé, collector of internal revenue for the first district of California, releasing him and his sureties from liability on account of certain defalcations.

The following officers have been relieved from the default of employés by acts of Congress, viz: Wm. J. Patton, collector internal revenue, Arkansas, $36,081.88; E. B. Pendleton, collector internal revenue, Virginia, $26,476.28; J. L. Thomas, jr., collector customs, Baltimore, $27,540.25, and many others which it is unnecessary to mention.

The following letters in these cases are submitted herewith:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., May 17, 1878.

SIR: From a recent report to this office of Messrs. Graves, McMillan, and Hale, it appears, among other things, that a shortage occurred in your collections in January, 1876, of $5,000, coin, which has not yet been made up. From the statements made by yourself and the cashier of your office the Department has no doubt but that the loss occurred through no negligence on your part, and if I had the power to relieve you of your legal liability for the amount I would gladly do so, but the matter having been brought officially to my attention I am compelled to ask you to make up the amount at as early a day as practicable, or to seek relief from Congress, which will probably consider your request favorably, and pending such action the Department will for a reasonable time suspend its demand for payment.

* * * * * * *

Very respectfully,

JOHN SHERMAN,
Secretary.

C. A. ARTHUR, Esq.,
Collector of Customs, New York City.

CUSTOM-HOUSE, NEW YORK CITY,
Collector's Office, February 20, 1885.

SIR: I am in receipt of your communication of the 18th instant (a. m.), in relation to the balance for which I appear on the books of the Department to be accountable to the United States, under my official bond, dated July 25, 1881.

The amount represents various sums which disappeared in a most unaccountable and mysterious manner from the cashier's department of this office at various times during the period of my incumbency, prior to March 12, 1883, when the last loss occurred.

By authority of the honorable Secretary of the Treasury, Pinkerton's detectives and a special detective of the Department made an exhaustive examination of the matter, and everything that ingenuity of man could suggest to discover the thief was resorted to, but without any absolutely conclusive result.

On one occasion, however, it was proven that the deficiency was in funds to which *only three persons had access* during the day. One of them, and only one, whom I found in office, was known to have been present on *every occasion when money had disappeared*, not only during my term but during the terms in office of two of my predecessors.

Even circumstantial evidence failed to go any further, but upon this coincidence the clerk was dismissed, and the result would seem to justify such action.

He died soon afterwards under the most painful circumstances in the asylum for the insane.

Feeling that I have not, in this connection at least, failed in the "true and faithful" discharge of the duties of my office, it is my intention, at the expiration of my term of service, to apply to Congress to relieve me from liability for this loss, for which I think I ought not to be held responsible.

Very respectfully,

W. H. ROBERTSON,
Collector.

H. C. JOHNSON, Esq.,
Commissioner of Customs, Washington, D. C.

PINKERTON'S DETECTIVE AGENCY,
New York, May 4, 1883.

DEAR SIR: Relative to the investigation made by this agency into the loss in your cashier's department of $9,000 in gold certificates on March 12, 1883, permit me to say:

The idea of an honest error in this case does not appear tenable, and, I think, may be dismissed. There is nothing in the detail of the work of that day, or in the "tickets" which were checked by the "counters" and receivers at the "paper-crib," to indicate that a $1,000 gold certificate could have been mistaken for one of $10,000, nor is it at all probable that both a "counter" and a receiver made separately the same error in counting.

I therefore decide that a larceny of the amount was committed by some one who had access to the money after it reached the "paper-crib."

In company with Mr. Drummond, of the secret service division, my general superintendent, Mr. Bangs, and my superintendent, R. A. Pinkerton, made careful and rigid examination of all such persons, and in every instance were impressed with the frankness and truthfulness of the employés, with one exception. The facts developed by these examinations early developed the strong probability that the larceny lay between only two of the men. One of these, Mr. Russell, I think may be entirely exonerated; but as to the other, his manner and statements bristle full of suspicious circumstances, and I understand that the investigations relative to this man, which are still being instituted by Mr. Drummond, add to the suspicions first entertained. There is as yet no absolute legal proof of his guilt, but my opinion is very decided that he, without collusion with any one, stole the money.

Yours, respectfully,

ALLAN PINKERTON,
By ROBERT A. PINKERTON,
Superintendent.

Hon. WILLIAM H. ROBERTSON,
Collector of the Port of New York.

UNITED STATES TREASURY DEPARTMENT,
SECRET SERVICE DIVISION, NEW YORK DISTRICT,
New York, May 6, 1886.

DEAR SIR: I find by an examination of reports in my possession that I met you first about March 27, 1883, regarding the case. That from April 2 to June 30, 1883, I had three men constantly on the case; that from April 10 to May 10, 1883, there were four men on the case; and from July 9 to July 29, 1883, there was one man on the case. These men were all withdrawn for the reason that the Secretary refused to longer pay them. During all this period I gave my personal supervision over all the men.

Very respectfully,

A. L. DRUMMOND.

Hon. WM. H. ROBERTSON,
Katonah, Westchester County, New York.

Mr. Bangs, Mr. Robert Pinkerton, and I did every thing that it was possible to do in the time we worked to discover the thief, and my four men did the same. We were all morally certain who the thief was, but had no legal proof. Since his dismissal I believe not a dollar has been lost.

A. L. DRUMMOND.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1084.

IN THE SENATE OF THE UNITED STATES.

MAY 17, 1886.—Ordered to be printed.

Mr. BLACKBURN, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany bill S. 1018.]

The Committee on the District of Columbia, to whom was referred the bill (S. 1018) for the relief of Patrick Cook, having considered the same, report as follows:

That on the 20th of January, 1875, Patrick Cook filed before the board of audit a claim for damages to certain lots belonging to him in the city of Washington, in square No. 24, said damages occasioned by public improvements in excavating Twenty-fourth street, northwest, between M and N streets; and on the 3d of August, 1875, the board of audit, after inspection, awarded to said Patrick Cook the sum of $1,500, that sum being the one-half of the amount claimed by him in his said petition. The said sum of $1,500 was, however, not paid to the said Patrick Cook, for the reason that the board of audit was legislated out of existence before they had prepared and issued to him the necessary certificate; and thus the claim now stands. Your committee think that he should be paid the $1,500 adjudged by the board of audit as due to him, and to that end report the accompanying bill with recommendation that it do pass.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1085.

IN THE SENATE OF THE UNITED STATES.

MAY 17, 1886.—Ordered to be printed.

Mr. VEST, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 711.]

The Committee on the Judiciary, to whom was referred the bill (S. 711) to establish the meaning of the word "month" in the statutes of the United States, submit the following report:

The bill provides that the word "month," wherever it occurs in any statute of the United States, shall be construed to mean a calendar month.

So far as can be ascertained from an examination of the reports, this question has never been raised in the courts of the United States. In the hundreds of cases involving protest of commercial paper, construction of contracts, where the act to be done or money to be paid was within a certain number of months, and criminal cases where the sentence was imprisonment for a term of months, the Federal courts have always construed the word "month" when found in the United States statutes to mean a calendar month.

A month, as defined in Burrill's Law Dictionary, is—

> Either a lunar month, consisting of twenty-eight days or four weeks, or a calendar month, consisting of twenty-eight to thirty-one days. In the common law of England a month is in matters temporal a lunar month. * * * In the United States the old English rule is considerably impaired, and the term "month" usually computed, and especially in statutes and judicial proceedings, as calendar. (1st Kent's Commentaries, 94, 95, note. Burrill's Law Dictionary, 727.)
>
> In New York, Massachusetts, Pennsylvania, and other States the legislatures have enacted that the word "month" whenever found in the State laws shall be held a calendar month, whilst in Georgia the old English rule is followed. (Sedgwick on the Construction of Statutory and Constitutional Law.)
>
> The universal rule of the commercial world in regard not only to negotiable instruments, but all commercial contracts, is to construe the word "month" to mean a calendar month. (Story on Bills, § 330.)

It is not believed that there is any necessity for the passage of the proposed bill, and it is therefore reported adversely.

O

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1086. Views of the minority.

IN THE SENATE OF THE UNITED STATES.

MAY 17, 1886.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

VIEWS OF THE MINORITY:

[To accompany bill H. R. 1877.]

The undersigned begs leave to dissent from the report of the majority of the Committee on Military Affairs on the bill (H. R. 1877) for the relief of John McNaughton.

The bill authorizes the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to John McNaughton, of Gervais, Scioto County, Ohio, the pay and allowances due said John McNaughton for services rendered the United States as second lieutenant of Company G, First Regiment of West Virginia Cavalry Volunteers, from the 16th day of August, A. D. 1863, to the 5th day of February, A. D. 1864.

This bill has received the favorable consideration of the House Committee on War Claims, has passed the House of Representatives, and was referred to the Senate Committee on Military Affairs.

The undersigned having been appointed the subcommittee to examine and report upon this bill, after full and due consideration of all the circumstances concerning it, is satisfied that it is meritorious and that Congress in all justice and equity ought to pass the bill and grant the relief asked for.

The merits of this case are very briefly set forth in the report of the House Committee on War Claims, as follows:

John McNaughton, now of Gervais, Scioto County, Ohio, was enrolled as a private, Company G, First Virginia Cavalry Volunteers, on the 14th day of August, A. D. 1861, *and was discharged, as first sergeant of said company, on the 15th day of August, A. D. 1863, for promotion to second lieutenant of said company. He was commissioned as second lieutenant of said company on the 12th day of August, A. D. 1863, by the governor of West Virginia, and was assigned to duty, and served as such until the 5th day of February, A. D. 1864.* As soon as his duties in the field permitted, he applied to the proper officer for muster, but his application was refused on the ground that his company did not have the requisite number of men, under General Orders No. 182, Adjutant-General's Office, series of 1863, to entitle it to a second lieutenant. *Notwithstanding he had been mustered out as an enlisted man, and had been refused muster as lieutenant, yet he was held to service without pay, rations, or clothing until February 5, 1864, and during all that time performed service as second lieutenant.* Since then he made application to the proper department for pay, but his claim was rejected because there was no law governing his case.

In view of these facts, the committee recommends the passage of this bill for his relief.

The case of Lieutenant McNaughton is unlike the many bills of a somewhat similar character which the Senate Committee on Military

Affairs have reported adversely at this session, in that he was commissioned a second lieutenant by the governor of West Virginia, and performed the duties of that rank, but received neither pay, rations, nor clothing for his services, either as a second lieutenant or an enlisted man, during the period of five months. The Secretary of War, in a letter to the undersigned, recognizing the justice of the case, says, "*that although McNaughton appears to be equitably entitled to relief, such relief can only be afforded him by special legislation.*" The letter of the Secretary of War and the report of the Adjutant-General are hereunto attached.

There is abundant, undisputed, and satisfactory proof that McNaughton performed the services of the rank of second lieutenant, as claimed, as will appear from the following:

HEADQUARTERS FIRST VIRGINIA CAVALRY,
Hartwood Church, Va., August 25, 1863.

Lieutenant McNAUGHTON:

You will report at these headquarters to-morrow at 7 o'clock a. m., to take command of twenty men from third squadron, fitted for picket duty.

By order of Major Capehart.

W. W. WILSON,
Lieutenant and Acting Adjutant, First Virginia Cavalry.

[Special Order No. 146.]

HEADQUARTERS CAVALRY CORPS, ARMY OF THE POTOMAC,
August 30, 1863.

The following-named enlisted men are hereby discharged, to enable them to accept commissions, to take effect from date set opposite their names.

* * * * * * *

First Sergeant John McNaughton, First Virginia Cavalry, second lieutenant from August 12, 1863.

* * * * * * *

By command of Major-General Pleasonton.

A. J. COHEN,
Acting Adjutant-General.

HEADQUARTERS FIRST VIRGINIA CAVALRY,
August 31, 1863.

Lieut. J. McNAUGHTON:

You are hereby detailed as officer of the guard for to-morrow (September 1) to report at guard-mounting.

By order of Col. N. P. Richmond.

W. W. WILSON,
Lieutenant and Acting Adjutant.

FAIRFAX COURT-HOUSE, VA.,
October 18, 1863.

Maj. HARRY FARABEE,
Commanding First Virginia Cavalry:

SIR: You will please assign *Lieut. John McNaughton*, Lieutenant Malone, and Lieutenant Haug to duty with their companies, and all will be right, and you will cause them to be regularly reported on the morning report.

* * * * * * *

Your friend,

CHAS. E. CAPEHART,
Major, First Virginia Cavalry.

HEADQUARTERS FIRST VIRGINIA CAVALRY,
New Creek, W. Va., December 28, 1863.

Lieut. John McNaughton has permission to be absent from camp for twenty-four hours, for the purpose of going to Cumberland, Md., to be mustered into the United States service.

CHAS. E. CAPEHART,
Major, Commanding Regiment.

CAMP FIRST VIRGINIA CAVALRY,
Stephensburg, Va., September 18, 1863.

To whom it may concern:

I certify that John McNaughton, formerly first sergeant of Company G, First Virginia Cavalry, was promoted to second lieutenant in said company the 14th day of August, 1863, and has been doing duty as such to the present date.

WILLIAM ST. CLAIR,
First Lieutenant Commanding Company G, First Virginia Cavalry.

The above-named sergeant was recommended by me for second lieutenant in Company G, First Virginia Cavalry, for meritorious conduct in the late campaign in Maryland and Pennsylvania, and received his commission as such to date 12th August, 1863 I certify that the above-named officer has performed the duties of second lieutenant, Company G, First Virginia Cavalry, from the 16th day of August, 1863.

CHAS. E. CAPEHART,
Major, Commanding Regiment.

The above evidence shows conclusively that McNaughton was mustered out of service as first sergeant by his superior officers for the purpose of accepting a commission as second lieutenant, was recognized by his fellow officers as second lieutenant, and did guard and picket duty in that capacity.

As soon as his duties in the field permitted, Lieutenant McNaughton applied to the proper officer for muster, but that officer refused to muster him for the reason that his company had not the legal number of men to entitle it to a second lieutenant. He was afterwards commissioned as a first lieutenant by the governor of West Virginia, and although he repeatedly asked to be mustered, was refused, but was required to continue on duty as a second lieutenant.

He was thus placed in the peculiar position of being neither an enlisted man, an officer, nor civilian, as he was held for service and not allowed to take advantage of his discharge as first sergeant or his commission as second lieutenant, but at the same time was granted neither pay, clothes, nor rations.

The undersigned sincerely believes that this is a case of hardship. Here was a soldier who honestly and faithfully served his country in the hour of peril, and is denied five months' pay for that service which he justly earned, and Congress has no right to take advantage of a technical quibble and withhold compensation from him which the War Department says he is "equitably entitled to," and if there is any fair and valid reason why he should not receive his pay the undersigned fails to comprehend it.

In view of all the circumstances above set forth, the undersigned respectfully recommends that the Senate will pass the bill, notwithstanding the majority of the Committee on Military Affairs are adverse to it.

J. D. CAMERON.

WAR DEPARTMENT,
Washington City, April 13, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo, inclosing, for the views of this Department, H. R. 1877, Forty-ninth Congress, first session, "An act for the relief of John McNaughton," late of Company G, First

West Virginia Cavalry, with the accompanying papers in the case. In reply I beg to inclose herewith a report from the Adjutant-General's Office of the 7th instant, which contains a statement of the military service of John McNaughton, and from which it will be seen that his assignment to duty as second lieutenant in the First West Virginia Cavalry was in violation of the act of March 3, 1863, and General Order No. 182, of 1863, based thereon, Company G being, during the period mentioned in the bill below, the minimum number. He was commissioned second lieutenant August 12, 1862, and appears to have rendered service from that date to February 5, 1864; *and although he appears to be equitably entitled to relief, such relief can only be afforded him by special legislation.*

The bill inclosed in your letter and its accompanying papers are herewith returned, as requested.

Very respectfully, your obediant servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. J. D. CAMERON,
Of the Committee on Military Affairs, United States Senate.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 7, 1886.

SIR: I have the honor to submit herewith communication (with inclosures) of Hon. J. D. Cameron, of Committee on Military Affairs, United States Senate, inclosing papers in support of a claim for the recognition of John McNaughton as a second lieutenant, First West Virginia Cavalry Volunteers, together with House bill No. 1877, Forty-ninth Congress, first session, for his relief, and requesting on behalf of said committee to be furnished with whatever information the files of this office may afford relative thereto, and to report as follows:

The records of this office show that John McNaughton was enrolled August 14, 1861, and mustered into service, and appointed sergeant Company G, First West Virginia Cavalry Volunteers, September 14, 1861, to serve three years.

He was promoted first sergeant November 1, 1862, and is borne as of that grade, present for duty, to April 30, 1863.

On roll for May, June, July, and August, 1863 (four months' muster roll), he is reported second lieutenant, present, with remark "Promoted from first sergeant to second lieutenant August 12, 1863, vice Swintzel, killed; was assigned to duty as lieutenant August 15, 1863." For September and October, 1863, "second lieutenant, present; discharged as first sergeant for promotion August 12, 1863; performed duty as second lieutenant since August 16, 1863, to October 31, 1863." For November and December, 1863, second lieutenant, present; "discharged as first sergeant for promotion August 12, 1863; performed duty as second lieutenant since August 16. 1863, to December 31, 1863." For January and February, 1864, second lieutenant, "absent on recruiting service."

Regimental returns for the months of January and February, 1864, are not on file.

Muster-out roll of non-veterans of the company (next on file), dated November 21, 1864, reports him "promoted to second lieutenant August 15, 1863; could not be mustered as such; mustered out as sergeant, to date August 15, 1863; relieved from duty by Secretary of War."

The records further show that Company G, First West Virginia Cavalry Volunteers, was below the minimum number during the period mentioned in the inclosed bill, and had two commissioned officers, a captain and a first lieutenant.

From the foregoing it will be seen that the assignment of John McNaughton to duty as second lieutenant Company G, August 16, 1863, was in violation of the act of Congress, approved March 3, 1863, and General Order No. 182 of 1863, based thereon, and that he continued to perform said duties to a date that cannot be definitely determined, in consequence of the incomplete condition of the records of his regiment.

It appears, however, from the evidence submitted that on February 5, 1864, the adverse decision of the Department on an application for his muster as a second lieutenant was transmitted to him by Brigadier-General Kelley, commanding Department West Virginia, and it is believed he severed his connection with the First West Virginia Cavalry Volunteers on that date.

Although Mr. McNaughton was commissioned second lieutenant First West Virginia Cavalry Volunteers August 12, 1863, and appears to have rendered service as of that grade from August 16, 1863, to February 5, 1864, the relief to which he is equitably entitled can only be afforded by special legislation.

I am, sir, very respectfully, your obedient servant,

J. C. KELTON,
Acting Adjutant-General.

The SECRETARY OF WAR.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1087. Views of the minority.

IN THE SENATE OF THE UNITED STATES.

MAY 17, 1886.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

VIEWS OF THE MINORITY:

[To accompany bill S. 1822.]

The undersigned begs leave to dissent from the report of the majority of the Committee on Military Affairs on the bill (S. 1822) for the relief of Maj. E. A. Hancock.

The bill as referred to the committee proposes to direct the Secretary of War to amend the record of Elisha A. Hancock, late of the Ninth Regiment of Pennsylvania Cavalry Volunteers, so as to show him mustered into service as major of said regiment, to take effect from the 10th day of January, 1865. The military history of Major Hancock is fully set forth in the papers received from the War Department, which are hereunto appended. The records of that Department show that Elisha A. Hancock was commissioned a major of the Ninth Pennsylvania Cavalry Volunteers April 7, 1866, to rank from January 11, 1865, and that a *legal vacancy existed* for him as such from January 19, 1865, the date on which William H. Langsdorf was relieved from duty and to which he was last paid as a major, and that said vacancy was continuous to date of muster out of service of the regiment.

Under the provisions of the act approved June 3, 1884, Major Hancock's muster into service as captain has been amended to date from February 13, 1863, the date his commission was *actually* issued, but under the provisions of that act he cannot be recognized as a major, for the reason that his commission as such was not actually issued until after his discharge from the service, and the Department says that "the relief to which he appears to be *equitably* entitled can only be afforded by special legislation."

This case is unlike the many cases of a somewhat similar character which have been adversely reported upon by the committee during this session, for the reason that a *vacancy existed* in the rank which he claims and that a commission was *actually* issued to him after his discharge from the service. Major Hancock, in his petition states that the commission was not issued at the time the vacancy occurred, for the reason that his regiment was in active service with General Sherman in South Carolina, and no opportunity was afforded for proper attention to this matter; that on the 16th day of March, 1865, while leading a battalion of his regiment in a charge upon the enemy at Averysborough,

N. C., his left leg was shot off by a cannon ball; that Hon. A. G. Curtin, governor of the State of Pennsylvania, before whom the facts were laid in 1866, recognized the fact that he was entitled to a commission as major, and on the 7th day of April, 1866, issued one to him, conferring rank from January 10, 1865.

In view of the undisputed facts above set forth, the undersigned respectfully dissents from the majority report in this case.

J. D. CAMERON.

WAR DEPARTMENT,
Washington City, April 17, 1886.

SIR: Referring to your letter of the 27th ultimo, submitting, for information, Senate bill 1922, "for the relief of Maj. E. A. Hancock, late of the Ninth Pennsylvania Cavalry Volunteers," I have the honor to invite attention to the inclosed report of the 13th instant from the Adjutant-General's Office on the subject, which, it is believed, affords the information desired.

The papers accompanying your letter are herewith returned as requested.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. J. D. CAMERON,
Committee on Military Affairs, United States Senate.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 13, 1886.

SIR: I have the honor to return herewith House bill 5749, Forty-ninth Congress, first session, for the relief of Elisha A. Hancock, late of the Ninth Pennsylvania Cavalry Volunteers, and to report as follows:

The records of this office show that Elisha A. Hancock was mustered into service, to fill an original vacancy as first lieutenant, Company H, Ninth Pennsylvania Cavalry Volunteers, October 7, 1861, and is borne as of that grade to April 30, 1863.

He was mustered in as captain, Company B, May 22, 1863, and on muster-roll of said company for May and June, 1863, he is reported captain, present for duty.

On rolls from June 30, 1863, to February 29, 1864, he is reported captain "detailed as provost-marshal on General Mitchell's staff"; from February 29, 1864, to February 28, 1865, captain present for duty; for March and April, May and June, 1865, captain wounded and sent to hospital, New Berne, N. C.

Muster-out roll of company, dated July 18, 1865, reports him captain with remark, wounded in action March 16, 1865, at home on furlough.

He was mustered out and honorably discharged as a captain, Company B, Ninth Pennsylvania Cavalry Volunteers, to date July 18, 1865.

By Special Order No. 80, Ninth Pennsylvania Cavalry Volunteers, dated December 27, 1864, Capt. E. A. Hancock was assigned to the command of the Third Battalion, from which duty he was relieved by Special Order No. 3, from same headquarters, dated January 13, 1865.

The records further show that Elisha A. Hancock was commissioned major, Ninth Pennsylvania Cavalry Volunteers, April 7, 1866, to rank from January 11, 1865, and that a legal vacancy existed for him as such from January 19, 1865, date William H. Langsdorf was relieved from duty and to which last paid as a major, and that said vacancy was continuous to date of muster out of service of the regiment.

His muster into service as captain has been amended under the provisions of the act approved June 3, 1884, to date from February 13, 1863, the date his commission was actually issued, but under the provisions of said act he cannot be recognized as a major, for the reason that his commission as such was not actually issued until after his discharge from the service, and, therefore, the relief to which he appears to be equitably entitled can only be afforded by special legislation.

I am, sir, very respectfully, your obedient servant,

J. C. KELTON,
Acting Adjutant-General.

The SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 13, 1886.

SIR: I have the honor to submit herewith communication with inclosures of Hon. J. D. Cameron, of the Committee on Military Affairs, United States Senate, inclosing Senate bill 1822, Forty-ninth Congress, first session, for the relief of Elisha A. Hancock, late of the Ninth Pennsylvania Cavalry Volunteers, and requesting, on behalf of said committee, to be furnished with any information in the possession of this office relative thereto, and the views of the Department as to the propriety of enacting such legislation as is proposed and to invite attention to a full report in this case (furnished this date) upon House bill 5749, Forty-ninth Congress, first session, which is identical with the bill now submitted.

I am, sir, very respectfully, your obedient servant,

J. C. KELTON,
Acting Adjutant-General.

49TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1088.

IN THE SENATE OF THE UNITED STATES.

MAY 17, 1886.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 2437.]

The Committee on Public Lands, to whom was referred the Senate resolution relating to Congressional land grants in aid of military wagon-roads in the State of Oregon, having duly considered the same, respectfully report:

The following is a copy of said resolution:

Whereas it is alleged by the legislative assembly of the State of Oregon in senate joint memorial No. 6, recently adopted by that body, and now before the Senate, that the companies succeeding to the land grants made by act of Congress approved July 2, 1864, to aid in the construction of a military wagon-road from Eugene City, in the State of Oregon, to the eastern boundary of the State, and by an act of Congress, approved July 5, 1866, in aid of the construction of a military wagon-road from Albany, Oreg., by the way of Canyon City to the eastern boundary of the State, and by subsequent legislation changed to go by way of Camp Harney instead of Canyon City, and by an act of Congress approved February 27, 1867, granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, Oreg., by way of Camp Watson, Canyon City, and Mormon or Humboldt Basin, to a point on Snake River opposite Fort Boise, have in no manner complied with the conditions of said grants, but, on the contrary, have failed, neglected, and refused to build or repair any roads along the routes over which they should have constructed them, in accordance with the intent and meaning of the acts of Congress aforesaid, and of the acts of the legislative assembly of the State of Oregon in reference thereto; and

Whereas it is further alleged in such legislative memorial now presented to Congress, that by means of false and fraudulent representation and evidence of such compliance said corporations have already obtained, and are obtaining, patents and lists for large portions of said land, and by means of similar false and fraudulent evidence are about to obtain patents and lists for other large amounts of said lands, and under a claim of privilege and right of selection of lieu lands within six miles' limit on either side of the routes of said pretended roads, are withholding other large amounts of land in fraud of the Government and to the great detriment and injury of the State of Oregon and its inhabitants: Therefore be it

Resolved, That the Committee on Public Lands be, and it is hereby, instructed to inquire into the truth of each and all of said allegations, and if found to be true, to report to the Senate, by bill or otherwise, what, if any, action can or should rightfully or properly be taken by Congress in the premises.

In response to a resolution of the Senate directing the Secretary of the Interior "to furnish to the Senate copies of all maps, papers, and documents on file in the Interior Department, showing the location of wagon-roads in the State of Oregon under the provisions of grants made to said State to aid in the construction of military wagon-roads, and the time when such locations were made, of all papers and documents filed as evidence of the completion of said roads, and compliance with the conditions upon which grants were made by private corporations to whom said grants were transferred by said State, and a statement of the number of acres of land to which said companies be-

came or would become entitled to upon compliance with the conditions of such grants, the number of acres within the limits of each of said grants surveyed to this date, the number of acres selected and listed by each of said companies, and the number of acres heretofore patented to each of said companies, together with copies of all official documents and papers showing or tending to show a failure on the part of said State or private corporations to comply with the conditions upon which such grants were made," the Secretary of the Interior transmitted to the Senate, accompanying his letter dated April 15, 1886, the information called for, from which and from other sources your committee compile the following statements in relation to the several wagon-road grants mentioned in said Senate resolution:

OREGON CENTRAL MILITARY ROAD.

By an act of Congress approved July 2, 1864 (13 Stat., 355), there were granted to the State of Oregon, to aid in the construction of a military wagon-road from Eugene City, by way of the Middle Fork of the Willamette River, to the eastern boundary of said State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road.

By an act of the legislative assembly of said State, approved October 24, 1864, the grant in question was conferred upon the Oregon Central Military Road Company.

By act of Congress approved December 26, 1866 (14 Stat., 374), the State was authorized to select from the odd-numbered sections within 6 miles of said road a quantity of land equal to the lands reserved from the operation of the act of 1864.

By act of Congress approved March 3, 1869 (15 Stat., 340), the time for completing the road was extended to July 2, 1872.

The act of Congress approved June 18, 1874 (18 Stat., 80), authorized the issue of patents to the State of Oregon for all lands granted to said State in aid of the construction of wagon-roads, as fast as the several roads should be completed and the lands selected, unless the State had transferred its interest to any corporation or corporations, in which case the patents were to issue to such corporation or corporations.

Copies of said several acts (except of act of March 3, 1869, extending the time of completion) are hereto attached, marked respectively A, B, C, and D.

The Oregon Central military road grant is estimated at about 720,000 acres, of which about 530,000 acres have been surveyed.

During the years 1867 and 1875, 361,327.43 acres were certified to the State for the benefit of said road, as follows:

Granted (3-mile) limits.

	Acres.
November 13, 1867	19,153.73
April 21, 1871	167,633.57
December 8, 1871	113,504.91
April 2, 1873	23,458.48
Total	323,750.69

Indemnity (6-mile) limits.

	Acres.
April 13, 1871	23,475.66
December 8, 1871	9,641.14
April 2, 1873	4,459.94
Total	37,576.74

The certifications above mentioned were all made prior to the passage of the act of June 18, 1874, authorizing the issue of patents, but none of the lands so certified have ever been patented either to the State or the company; 108,210.27 acres thereof are within the limits of the Klamath Indian Reservation, established under treaty of October 14, 1864 (16 Stat., 707), and a large amount within the territory ceded by that treaty.

In addition to the foregoing, 40,913.24 acres within the granted limits have been patented to the company, making a total of 402,240.67 acres which have been certified and patented.

In addition to the lands certified and patented, selections to the amount of 11,065.35 acres have been made by the company, and are now pending in the General Land Office.

It will be observed by reference to the act of Congress making said grant that it is provided that the evidence of the completion of the road should be the certificate of the governor of the State, filed with the Secretary of the Interior. Such certificates of completion were duly filed and constitute the evidence upon which the selected lists of lands by said company were approved and upon which patents were issued. They are as follows:

Certificate of Addison C. Gibbs, then governor of Oregon, dated July 27, 1866, under the seal of the State, to the effect that he had passed over and carefully examined the first 50 miles of said road, and that said 50 miles were completed in accordance with the requirements of the act of July 2, 1864, and of the laws of Oregon. (Copy herewith, marked E.)

Certificate of George L. Woods, then governor of Oregon, dated November 26, 1867, under the seal of the State, that said road had been carefully inspected from the point to which it had already been approved to Crescent Lake, a distance of 42.50 miles, and found to be well and faithfully built, and fully up to the requirements of the law. (Copy herewith, marked F.)

Certificate of George L. Woods, then governor of Oregon, dated January 12, 1870, under the seal of the State, that said road, extending from Eugene City to the eastern boundary of the State, had been completed as required by the act of Congress and of the legislature of Oregon. (Copy herewith, marked G.)

WILLAMETTE VALLEY AND CASCADE MOUNTAIN WAGON-ROAD.

The act of July 5, 1866 (14 Stat., 89), granted to the State of Oregon, to aid in the construction of a military wagon-road from Albany, Oreg., by way of Canyon City, to the eastern boundary of the State, alternate sections of the public lands, designated by odd numbers, three sections per mile, to be selected within 6 miles of said road.

By act of its legislature, approved October 24, 1866 (Laws of Oregon, 1866, p. 58), the State conferred said grant upon the Willamette Valley and Cascade Mountain Wagon-Road Company.

By act approved July 15, 1870 (16 Stat., 363), Congress authorized the construction of the road by way of Camp Harney, instead of Canyon City.

The odd-numbered sections within the limits of the grant were withdrawn from settlement and entry under the land laws of the United States upon the location of the road. The amount so withdrawn is about 1,392,000 acres, of which about 1,048,000 have been surveyed. The

grant is estimated at 861,000 acres, of which 548,749.53 acres have been patented to the company as follows:

	Acres.
June 19, 1876	107,893.01
October 30, 1882	440,856.52

In addition to the lands patented as above, selections to the amount of 96,147.95 acres have been made by said company, and are now pending in the General Land Office.

Said act of Congress and act of the legislative assembly of the State of Oregon were substantially like the acts relating to the grant of the Oregon Central Military Road Company. The evidence of completion required by the granting act was the same, viz, the certificate of the governor of the State to the Secretary of the Interior. Such certificates were filed and are as follows:

Certificate of Samuel E. May, secretary of state and acting governor of Oregon, dated April 11, 1868, under the seal of the State, that 180 miles of said road, extending from Albany in the direction of Canyon City, had been completed as required by the act of Congress approved July 5, 1866, and of the legislature of the State of Oregon. (Copy herewith, marked H.)

Certificate of George L. Woods, then governor of Oregon, dated September 8, 1870, under seal, that said road had been examined and accepted from the one hundred and fifty-third mile post to the two hundred and ninetieth mile post, at Camp Harney. (Copy herewith, marked I.)

Certificate of Hon. L. F. Grover, governor of Oregon, dated January 9, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the two hundred and ninetieth to the three hundred sixty-eighth mile. (Copy herewith, marked J.)

Certificate of Hon. L. F. Grover, governor of Oregon, dated June 24, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the three hundred and sixty-eighth to the four hundred and forty-eight seven-tenths mile, at the eastern boundary of the State. (Copy herewith, marked K.)

DALLES MILITARY ROAD.

The act of Congress approved February 25, 1867 (14 Stat., 409), granted to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, by way of Camp Watson, Canyon City, and Mormon or Humboldt Basin, to a point on Snake River opposite Fort Boise, Idaho, alternate sections of public lands, designated by odd numbers, to the extent of three sections in width on each side of said road, with the right to select from the alternate odd-numbered sections within 10 miles of the road an additional amount of land equal to the amount reserved from the operation of the grant.

By act of its legislature approved October 20, 1868 (Laws of Oregon, 1868, p. 3), the State of Oregon conferred said grant upon Dalles Military Road Company.

The grant for said road is estimated at about 576,000 acres, of which about 325,000 acres have been surveyed and 126,910.23 acres were patented to the road company June 19, 1876, and additional lands to the amount of 49,554.25 acres have been selected, and the selections are now pending in the General Land Office, leaving about 449,090 acres unpatented.

The granting act was substantially like the acts of July 2, 1864, and of July 5, 1866. The evidence of completion required was the certificate of the governor of the State to the Secretary of the Interior.

The evidence of completion upon which lands to the amount above stated have been approved to the company is the certificate of Hon. George L. Woods, then governor of Oregon, dated June 23, 1869, under the seal of the State, that he had made a careful examination of said road after its completion, and that the same was built in all respects as required by law. (Copy of certificate herewith, marked L.)

In a report of the Commissioner of the General Land Office concerning this grant recently communicated to the Speaker of the House of Representatives, accompanying a letter from the Hon. Secretary of the Interior (House Ex. Doc. 31, Forty-ninth Congress, first session), it is stated in regard to this road that the certificate indorsed upon the map of constructed road shows that the survey thereof was commenced April 22 and completed May 17, 1869. The road was accepted by the governor as completed June 23, 1869. It appears, therefore, according to the certificate, that the entire road, 330 miles in length, was surveyed, constructed, examined, and accepted by the governor within a period of sixty-three days.

These several grants were *in presenti*, and vested the title of the United States to the lands embraced within them immediately in the State, subject to be divested for a breach of the conditions upon which the grants were made. The grants acquired precision of locality as to the lands in place by the location of the roads and the extension of the United States surveys, and as to indemnity lands granted to the State by the act of December 26, 1866, by their selection by the surveyor-general of State as provided in the act.

An act of Congress is the highest muniment of title to the public lands known to the law, and no patents were required by or provided for in the acts.

The general routes of the roads were fixed with geographical certainty in the acts of Congress, and there was no requirement for filing maps or other evidence of location. The lands were pledged exclusively to the construction of the roads; the State was authorized to sell not exceeding thirty sections as fast as each section of ten continuous miles of road was completed, and the roads were to "be and remain public highways for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States."

It is now claimed by the State of Oregon, the original grantee, through its legislature in substance, that the conditions upon which these grants were made, were not, in fact, complied with: that the certificates of Governors Gibbs, Woods, and Grover to the Secretary of the Interior were false and fraudulent, and Congress is asked to do what may be necessary to forfeit said grants for such non-compliance with the conditions upon which they were made and to restore the granted lands to the public domain.

Mr. R. V. Ankeny, special agent of the Interior Department, who was sent to Oregon in 1880 to examine the swamp lands claimed by said State, in connection with an agent of that State, appears to have been instructed by the Commissioner of the General Land Office to "examine as to practicability of the road, in relation to travel as a highway, the location of bridges, neglect to build bridges where needed, and by intercourse with the people and your own observations learn its previous history and present condition; learn whether it was and now is such a

road as was contemplated by the statutes," and to have examined the road and made a report substantially to the effect that he found no especial violation or evasion of the law of Oregon regulating the construction of highways; but, on the contrary, that its requirements were favorably exceeded over the Cascade Mountains. A copy of said report is hereto attached, marked M.

So far as your committee can ascertain, no complaint appears to have been made to the Interior Department as to the manner in which the road of the Oregon Central Military Wagon-Road Company had been constructed at that time to call for an investigation.

By a letter dated Prineville, Wasco County, Oregon, March 17, 1878, one Elisha Barnes complained to the Commissioner of the General Land Office that the road of the Willamette Valley and Cascade Mountain Wagon-Road Company had not been constructed in accordance with the terms and conditions of the act of Congress granting lands to the State of Oregon to aid in the construction of said road.

By letter dated April 27, 1880, the Commissioner of the General Land Office submitted the matter to the Secretary of the Interior, Hon. Carl Schurz, for determination as to whether or not an investigation should be ordered. A copy of said letter is hereto attached, marked N. With the approval of the Secretary of the Interior, the Acting Commissioner of the General Land Office, by letter dated August 16, 1880, of which a copy is hereto attached, marked O, directed one William F. Prosser, a special agent, to examine the line of said road from Albany to the eastern boundary of the State, and to report its then condition as well as its previous condition with reference to its graduation, width, location of bridges, and fitness for use as a wagon road. Mr. Prosser examined the road and made a report October 30, 1880, accompanied by affidavits. A copy of the report is hereto attached, marked P, accompanied by affidavits marked P 1 to P 9, inclusive.

The honorable Commissioner of the General Land Office, in House Ex. Doc. 131, Forty-ninth Congress, first session, hereinbefore referred to, states the substance of this report as follows:

Mr. Prosser states that the company, with the consent of the county authorities, appropriated an old county road extending from Albany to a point about 4 miles east of Sweet Home, a distance of about 36 miles; that from the point last named to Cache Creek, about 60 miles, a passable road, except for lack of many necessary bridges, was constructed, and that from Cache Creek to the eastern boundary of the State, more than 350 miles, the company took advantage of the open character of the country and simply made a wagon-track. He states that in all the distance between the points last named not a single bridge was built, and only grading sufficient to admit of the passage of a lightly loaded wagon.

Referring to the mode of construction, he states that between Sweet Home and Cache Creek the work consisted in grading a track sufficiently wide for a single wagon to pass, with occasional turnouts where the ground was favorable, and that from Cache Creek to the eastern boundary of the State construction consisted simply of a party of men, most of whom were on horseback, going through the country with a wagon at the rate of 10 or 15 miles per day, blazing trees when passing through the open timber, doing a little grading in difficult places, and finding fording places in the streams.

Mr. Prosser's statement relative to the rapidity with which the road was constructed appears, at least so far as a portion thereof is concerned, to be borne out by the certificate of the governor of the State. For instance, the map of a section of 80 miles of said road shows that the survey thereof was commenced May 18 and completed May 28, 1871: and the certificate of the governor that said section had been examined and found completed in accordance with the granting act is dated June 24, 1871, just thirty-eight days, including Sundays, from the commencement of the survey.

With reference to the present condition of the road, Mr. Prosser states that from Albany to Sweet Home there is a fair country road, which, however, is kept up by Linn County; that from Sweet Home to Cache Creek it is in fair condition for a mount-

ain road, except for lack of bridges, and that from Cache Creek to the South Fork of the Malheur River the road generally is in bad condition, without bridges, and in many places almost impassable for loaded wagons, and that at a point near the South Fork of the Malheur River, about 100 miles west of the eastern terminus, he lost all trace of the road and was obliged to return to Albany.

By letter dated December 4, 1880, a copy of which is hereto attached, marked Q, Mr. Prosser's report and accompanying affidavits were submitted to the Secretary of the Interior, with recommendation that the attention of Congress be called to the matter, with a view to the forfeiture of the grant.

The matter having been laid before Congress, on February 21, 1881, Mr. Upson, from the House Committee on Military Affairs, submitted a voluminous report reciting the history of the grant, setting forth the certificates of Hon. L. F. Grover, governor of Oregon, as to the completion of the road, the aforesaid letter of Elisha Barnes, letter of the Acting Commissioner of the General Land Office to Elisha Barnes, the letter of instructions of the Commissioner of the General Land Office, Hon. J. A. Williamson, to Agent W. F. Prosser; Mr. Prosser's report of his examination of the road, and affidavits alleging that the report made by said Prosser was unqualifiedly false, that said road had been well built in all respects in accordance with the terms and conditions of the granting act, and was a great benefit to the people of the Willamette Valley, of Eastern Oregon, and of the whole State.

The committee, after reviewing the facts and examining the law, and citing numerous decisions of the Supreme Court of the United States, concluded their report as follows:

After careful consideration, your committee conclude—

1st. That the act of Congress approved July 5, 1866, vested a present title to the land in question in the State of Oregon.

2d. That by the act of the legislature, and the acts of the governor of Oregon, the title to said land was vested in the Willamette Valley and Cascade Mountain Wagon-Road Company.

3d. That by the deed of said company to Clarke and the subsequent deeds from Clarke and others the title to said land is now lawfully vested in the present claimant, Alex. Weill.

4th. That said title cannot be forfeited or annulled and reinvested in the United States excepting by a judicial proceeding, and that the same has become a vested right which Congress cannot impair or take away.

Wherefore your committee recommend no legislation by Congress in regard to the matter of the said land grant submitted by the Secretary of the Interior for their consideration, and ask to be discharged from further consideration of the same.

At the first session of the Forty-seventh Congress the President of the United States, by special message, submitted to Congress a communication of the Secretary of the Interior, dated February 1, 1882, conveying information respecting lands granted to the State of Oregon to aid in the construction of the said Willamette Valley and Cascade Mountain wagon-road, which message and letter are as follows, omitting the accompanying correspondence:

To the Senate and House of Representatives:

I transmit herewith a communication of 1st instant from the Secretary of the Interior, covering information respecting the lands granted to the State of Oregon for the Willamette Valley and Cascade Mountain Wagon-Road Company.

The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
February 8, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, February 1, 1882.

SIR: On the 6th of January, 1881, my predecessor laid before Congress, by letter addressed to the presiding officer of each House, copies of certain papers and correspondence relating to the lands granted to the State of Oregon by act of July 5, 1866 (14 Stat., 89), and by act of the State legislature on the 24th of October, 1866, conferred upon the Willamette Valley and Cascade Mountain Military Wagon-Road Company.

The papers appear to have been referred to the Committee on Military Affairs in the House and duly reported upon, the report having been ordered to be printed on the 1st of March last, constituting House Report No. 332, Forty-sixth Congress, third session. Final action was, however, prevented by the adjournment, and I am not aware of any renewal of proceedings in the matter during the present session, nor am I advised of any action of the Senate upon the subject.

Referring to the matters therein contained, I now have the honor to submit a copy of a report, dated 15th of April last, from the Commissioner of the General Land Office, transmitting a letter dated April 13, 1881, from Hon. J. H. Slater, inclosing one to himself of date March 19, 1881, from A. B. Webdell. Also, copy of a letter from G. W. Barnes, esq., dated Prineville, Oreg., June 10, 1881, urging an appeal to the court to set aside the patents already issued and to declare forfeited the said grant for failure to comply with its provisions in the matter of the construction of the road.

I also inclose a copy of a communication from Messrs. Shellabarger & Wilson, attorneys for the grant claimants, dated June 2, 1881, reciting the action of Congress at the last session and demanding the approval of lists and the issue of patent for all the remaining lands, on the ground that the legal evidence of the entire construction of the road is now complete, and that the lands have passed into the hands of a *bona fide* purchaser for value without notice of any defect in the title.

As the action of Congress contemplated in my predecessor's communication has not yet been completed, I would respectfully request that the whole subject be again laid before that body for final disposition, in order that whatever of executive action may be required may be speedily taken, and great delay and hardship to public and individual interests be avoided.

If Congress shall deem the evidence insufficient to justify the patenting of the lands under its former grant, and shall direct a proceeding by the Attorney-General for the purpose of testing the matter in the courts, this Department will await the issue of such suit before proceeding farther.

Very respectfully,

S. J. KIRKWOOD,
Secretary.

The PRESIDENT.

Such message and accompanying documents having been referred to the Senate Committee on Military Affairs, Senator Cockrell, from that committee, on May 26, 1882, submitted a report reviewing the law and facts of the case. The concluding portion of said report is as follows:

In the opinion of your committee the executive department of the Government had ample authority in law to thoroughly investigate this whole subject matter, and, if deemed necessary, to institute legal proceedings in the courts of the United States to secure a forfeiture of the said grant of lands, or any part thereof, for non-compliance with the terms, conditions, &c., of said grant, or for fraud, evasion, &c., on the part of the constructing company, without any legislation or instructions from the legislative department. It is simply impossible for your committee to make such an investigation as will justify definite action by Congress which would do justice and equity in the premises.

Believing, therefore, that the executive department has ample power and authority to pursue such a course as will do justice and equity in the premises, and without expressing any opinion upon the merits of the case, or the conclusions of law and facts arrived at by the House reports, your committee report back to the Senate said Executive Document as referred to them, with the recommendation that no action be taken by Congress, and that your committee be discharged from the further consideration thereof.

At the special session of the legislative assembly of the State of Oregon, convened November 9, 1885, the commissioners previously appointed, pursuant to house concurrent resolution No. 14, adopted at the thirteenth session of the legislative assembly of said State, to investigate as to whether the roads of the Willamette Valley and Cascade Mountain Wagon-Road Company, the Dalles Military Wagon-Road

Company, and the Oregon Military Wagon-Road Company had been completed according to law, made a report, from which we quote the following:

REPORT OF COMMISSIONERS APPOINTED BY THE THIRTEENTH LEGISLATIVE ASSEMBLY OF THE STATE OF OREGON, PURSUANT TO HOUSE CONCURRENT RESOLUTION NO. 14.

To the honorable the legislative assembly of the State of Oregon:

We, your commissioners appointed to investigate the Willamette Valley and Cascade Mountain Wagon-Road Company, the Dalles Military Wagon-Road Company, and the Oregon Central Wagon-Road Company, as to whether or not the said companies have complied with the law in the matter of completing their respective roads, beg leave, at this time, to report:

First. That I. D. Haines, one of said commissioners, traveled between the Blue Mountains and the eastern line of this State, over the eastern part of the State, a distance of 800 miles, through a sparsely settled country, in examination of parts of routes over which said roads are located and marked upon the plats of the United States surveys, and took and caused to be taken twenty-six affidavits of persons residing about and near said routes and along same for a long period of time where such roads should be constructed, which affidavits are as follows: J. A. Morton, D. D. Munger, J. P. Ross, F. P. Ball, P. P. Ford, Mary O. Keefe, J. H. Fenwick, John Bird, John McMahon, H. B. Bell, Martin Crisman, and A. F. Carter, and are hereto attached and herewith presented, marked for identification, respectively, as follows, to wit: *A*-I. D. H., *B*-I. D. H., *C*-I. D. H., *D*-I. D. H., *E*-I. D. H., *F*-I. D. H., *G*-I. D. H., *H*-I. D. H., *I*-I. D. H., *J*-I. D. H., *K*-I. D. H., *L*-I. D. H., *M*-I. D. H., and thirteen others marked *L*.

Second. That A. R. Lyle, one of said commissioners, traveled on and about the western slope of the Blue Mountains, in Crook and Lake Counties, a distance of 370 miles, in examination of parts of the routes over which said roads are located and marked upon the plats of the United States surveys, and took and caused to be taken twenty-nine affidavits of persons residing about and near said routes and along same for a long period of time, where such roads should be constructed, which affidavits are as follows: James Slater, I. N. Bostwick, L. J. Hedgpeth, Elisha Barnes, B. F. Nichols, J. N. Duncan, J. H. Snoderly, David E. Thompson, A. Hodges, D. Wayne Claypool, George W. Dodson, Daniel T. Counsil, A. Zell, Thomas J. Logan, A. W. Power, Monroe Hodges, A. B. Webdell, John T. Circles, W. M. Vanderpool, William Circles, Daniel H. Hale, B. F. Allen, Josephus Wilson, R. M. Templeton, J. P. Carns, J. H. Claypool, J. P. Hunsaker, J. H. Miller, and Frank McBean, herewith presented and marked A. R. L.

Third. That G. W. McHaley, one of said commissioners, traveled over parts of the country in and about Canyon City in Grant County, a distance of 50 miles, in examination of parts of the routes over which said roads are located and marked upon the plats of the United States surveys, and took and caused to be taken nine affidavits of persons residing about and near said routes, and along same, for a long period of time, where such roads should be constructed, which affidavits are as follows: William R. Gordon, John S. Wilson, L. M. Bower, E. E. Abbott, T. J. Howard, R. F. Claypool, T. A. McKinnon, J. N. Fenqua, and Thomas House, herewith presented, marked G. W. McH.

Fourth. From such examination and affidavits your commissioners find as facts:

(1) That the Willamette Valley and Cascade Mountain Wagon-Road Company have neither built, graded, bridged, cleared, or constructed any road along the route over which the road designated in the acts of Congress in relation thereto as the Willamette Valley and Cascade Mountain wagon-road is located and marked on the plats of the United States surveys, from the Blue Mountains to the eastern boundaries of this State; nor in the many years since the acts of Congress aforesaid were passed has any road been constructed or built by said company along said route or any route between the points above named, in accordance with the intent and meaning of the acts of Congress aforesaid. That the only roads in the country along said route are those built by settlers and emigrants, some of which are located on the route or parts thereof, along which said company should have constructed said road referred to and claimed by said company, but which were not in any part built or constructed by said company, nor by said company repaired or kept in condition to travel upon, or, so far as your commissioners can find from personal examination and from the testimony of persons who have resided for a long period of time along said route and in the country round about, have such company done any work upon the said old emigrant roads and citizens' roads, or any of them.

Fifth. That what your commissioners find true of the Willamette Valley and Cas-

cade Mountain Wagon-Road Company, they find true also of the Oregon Central Military Wagon-Road Company. The said company have built or constructed no road whatever along their route, neither bridged, cleared nor repaired any already built, and the only roads in the country along said route have been constructed by emigrants and settlers, and are not the road contemplated by said acts of Congress.

Sixth. Your commissioners find the same true of the Dalles Military Wagon-Road Company. They have built no road nor repaired any built by settlers, from Canyon City east, and over some parts of said route, from Canyon City to the Dalles, travel passes over toll bridges and toll roads, and has ever since the company pretended to have built a road over said route.

Wherefore, your commissioners recommend that your honorable body pass the following resolution:

Resolved by the senate (the house concurring), That the governor, secretary of state, of this State, and board of land commissioners be, and they are hereby, instructed to retain all lists of land which may be granted by Congress in trust for the Willamette Valley and Cascade Mountain Wagon-Road Company, the Oregon Central Military Wagon-Road Company, or the Dalles Military Wagon-Road Company, and not to issue any deeds to either of said companies or their assigns, and further to memorialize Congress to the effect that the grants of lands heretofore granted by certain acts of Congress to said companies or to the State of Oregon in trust for said companies on condition said companies construct said roads, be so far as the same is not heretofore patented or listed, by acts of Congress, abolished, vacated, and annulled, and considered lapsed, and also all grants, rights, and privileges of selecting lieu lands within six-mile limits or other limits on each side of such granted land, be abolished, vacated, and annulled and considered lapsed by act of Congress; and in case patents have already been issued by the United States for all or any part of said lands to said companies instead of to the State of Oregon in trust for them, that Congress authorize suits to be instituted in the courts of the United States to vacate said grants and annul said lists or patents so issued, for that through the fraud of said companies in not building said roads there is no consideration for said grants, and the list and patents, if any there are, have been obtained under representations which were not true.

Your commissioners further report for your consideration the fact set forth in relation to the Willamette Valley and Cascade Mountain Military Wagon-Road Company in the special report presented herewith.

Your commissioners further report that the lands within what is known as the six-mile limits along the routes of said roads, are held from settlers by said companies, claiming through the privileges and rights of selecting lieu lands within [the] same, to the great inconvenience of the people, and in fraud of the Government; and we recommend that measures be taken and adopted whereby, upon the memorial of your honorable body to Congress and otherwise, such lands may [be] placed upon the market to the end that the settler may have the same rather than these companies.

Your commissioners further find that Commissioner I. D. Haines is entitled, under said resolution, to the sum of eighty dollars for mileage traveled in said investigation of said roads, and to twenty-six dollars for twenty-six affidavits taken in relation thereto.

That Commissioner A. R. Lyle is entitled under said resolution to the sum of thirty-seven dollars for mileage traveled in said investigation of said roads, and to twenty-nine dollars for twenty-nine affidavits taken in relation thereto.

That Commissioner G. W. McHaley is entitled to the sum of five dollars for mileage traveled in such investigation, and to nine dollars for nine affidavits taken in relation thereto.

And your commissioners ask that the secretary of state [issue] warrants for the sum of $202 upon certificate of the commissioners therefor, for the payment of such mileage and affidavits in the amounts above set forth to said persons, and Thornton Williams for clerk hire $10, and George Burns to $15 for services as clerk. All of which is respectfully submitted this 19th day of November, 1885.

I. D. HAINES,
G. W. McHALEY,
A. R. LYLE.

The special report referred to is as follows:

The "Willamette Valley and Cascade Mountain Military Wagon-Road Company" was incorporated under the general laws of the State of Oregon, on the 10th day of March, 1864, by making and subscribing written articles of incorporation, of which the following is a copy, to wit:

"Articles of incorporation of the Willamette Valley and Cascade Mountain Wagon-Road Company.

"Luther Elkins, D. W. Ballard, John Settle, Isaac Coryell, Morgan Kees, Jacob Kees, James A. Richardson, and John Powell, their assigns and successors, do hereby associate together and incorporate themselves under and by virtue of the provisions

of an act of the legislative assembly of the State of Oregon, entitled 'An act providing for private incorporation,' &c., approved October 14, 1882.

"ARTICLE 1. The name of this incorporation and by which it shall be known is the Willamette Valley and Cascade Mountain Wagon-Road Company.

"ART. 2. The object of this incorporation and the business in which it proposes to engage is to make and keep in repair a wagon road, with the necessary bridges, ferries and ferry-boats, toll-gates, &c., from the Willamette River, and across the Cascade Mountains on to the eastern bank of the Deschutes River; commencing at a point on the eastern bank of the Willamette River, in Linn County, opposite or near the city of Corvallis, thence on the most practicable route up the South Fork of the Santiam River, crossing and recrossing said Santiam River at sundry places, as the incorporators may determine; thence up the said Santiam River or some of its tributaries; thence across the Cascade Mountains to the valley of the Deschutes River; thence to the Deschutes River, terminating at such point east of said Deschutes River as the incorporators may determine by general survey.

"ART. 3. The principal office and place of business to be located at Lebanon, Linn County, Oregon.

"ART. 4. The capital stock of this incorporation to be $30,000.

"ART. 5. The amount of each share of capital stock to be $100.

"In witness whereof we have set our hand and seal this 10th day of March, A. D. 1864: Luther Elkins, D. W. Ballard, John Settle, Isaac Coryell, John Powell, Morgan Kees, Jas. A. Richardson, Jacob Kees."

These were filed in the office of secretary of state, at Salem, on the 12th day of March, A D. 1864.

Under these articles the company continued without any change until September 8, 1866, but in July, 1866, the company asked Congress to aid them in the construction of the road by a grant of land, and obtained the passage of the following act of Congress, which was signed by the President on the — day of July, 1866, to wit:

AN ACT granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be and hereby is granted to the State of Oregon, to aid in the construction of a military wagon-road from Albany, Oregon, by way of Canyon City and the most feasible pass in Cascade range of mountains, to the eastern boundary of the State, alternate sections of public lands designated by odd numbers, three sections per mile, to be selected within six miles of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be and the same are reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the legislature thereof for the purposes aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That said road shall be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon-road, and in such special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: That when ten miles of said road shall be completed, a quantity of land not exceeding thirty sections for said road may be sold coterminous to said completed portion of said road; and when the governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold coterminous to said completed portion of said road, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States. (Approved 1866. Page 89, United States Session Laws, Thirty-ninth Congress.)

This act was passed while the company was doing business under the original articles, which limited the business of the company to simply "to make and keep in repair a wagon road, with the necessary bridges, ferries, and ferry boats, toll gates, &c., from Corvallis to a point on the Deschutes River." It had no authority or power under its articles to hold or own lands, and it was not intended by Congress, as ap-

pears clearly from the wording of the grant, that the land should ever go to the company, but that so much as was needed to raise money to construct the road should be disposed of by the State of Oregon in quantities of only thirty sections at a time, and that as the work progressed and as each ten continuous miles of road were built, and then only after the governor of this State had certified to the Secretary of the Interior that such section of ten continuous miles had been completed with such "width, gradation, and bridges as to permit of its regular use as a wagon road, and in such special manner as the State of Oregon may prescribe." The legislature of this State, October 24, 1862, page 531 of the Code, enacted that "any road other than a railway constructed by a corporation, shall be cleared of standing timber for 30 feet in width of said road, and shall have a track in the center not less than 16 feet wide, finished and kept in good traveling condition, except when the cutting on said road is 6 feet or more steep on either side, in which case such track need not be more than 10 feet wide, with turnouts of 16 feet in width for every quarter of a mile of such narrow track."

On the 24th day of October, 1866, the legislature of this State passed an act, which, after reciting the act of Congress in full, reads as follows:

SECTION 1. *Be it enacted by the legislative assembly of the State of Oregon*, That there is hereby granted to the Williamette Valley and Cascade Mountain Wagon-Road Company, all lands, right of way, rights, privileges and immunities heretofore granted or pledged to this State by the act of Congress, in this act heretofore recited, for the purpose of aiding said company in constructing the road mentioned, and described in said act of Congress, upon the conditions and limitations therein prescribed.

SEC. 2. There is also hereby granted and pledged to said company all moneys, lands, rights, privileges, and immunities which may be hereafter granted to this State to aid in the construction of such road, for the purpose and upon the conditions and limitations mentioned in said act of Congress, or which may be mentioned in any further grants of money or lands to aid in constructing such road.

SEC. 3. Inasmuch as there is no law upon this subject at the present time, this act shall be in force from and after its passage. (Approved October 24, 1866. Session Laws of 1866, pages 59, 60.)

Just prior to the passage of this act, to wit, on the 8th day of September, 1866, the company made and filed supplemental articles of incorporation which changed the line of their road so as to begin at Albany, in Linn County, running up the Santiam River over the Cascade Mountains by the Lake Pass to the Deschutes Valley, past Black Butte, Camp Polk, to Crooked River, across the Blue Mountains by way of Canyon City, east to the eastern boundary of the State. So that all of the immense grant of land donated to the State by Congress to aid in the construction of this road, was by this act of the legislature in total disregard of the plain and express provisions of the act of Congress, given to the company, and that within less than two months from the time the company had selected the route of their proposed road, and, from aught we have been able to find, before any road whatever had been built, and certainly before a single section of ten continuous miles of road had been examined and certified as completed, by the governor of this State.

On the 25th day of June, 1867, the directors, by vote of the company, accepted the gift of the legislature, and filed their acceptance in the office of the secretary of state.

After the location of the road as above set forth, and the gift of the lands adjacent thereto, the company appears to have been dissatisfied with their line, and in July, 1870, Congress passed the following act, to wit:

AN ACT to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military wagon-road from Albany, Oreg., to the eastern boundary of said State."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State," be amended so as to strike out the words "by way of Canyon City" in the first section of said act, and insert instead thereof the words "by way of Camp Harney." (Approved July 15, 1870. Session Laws, 1869–'70, Forty-first Congress, second session, page 363.)

This act was passed, as will appear from the dates given, after the land granted the State had been given the company along the line "by way of Canyon City," and since that time no action whatever has ever been taken by the legislature, and we submit that at least the lands lying along the line embraced within this change were not conveyed to this company by the act of legislature, and that the title thereto yet remains in the State, or has passed to the General Government, under the provisions of section 4 of the act of Congress.

On the 3d day of June, 1871, the company, by an unanimous vote of all the members of the company, made and filed additional supplemental articles of incorporation, changing the "business, enterprise, pursuit, or occupation in which the company proposed to engage, in addition to that expressed in the original and supplemental articles of incorporation heretofore made and filed, to be to purchase, take, accept, own, and hold any grant of land, of personal property, or thing of value from the United States, or from the State of Oregon, or from any person or corporation, and to purchase, own, and hold real and personal property of the kind and to the extent said corporation may deem necessary or advantageous, and to bargain, sell, transfer, and convey any and all real and personal property which said corporation now or at any time own, and to do and perform any and all acts necessary, holding, selling, and conveying any real and personal property of whatever description, and to construct, own, and keep a toll road, toll bridges and ferries, and to recover and collect toll on any road or part of a road, bridge, and ferry by this corporation owned and kept, and to make, alter, or change the line or route of said road, bridge, ferries, and toll-gate, and to do and perform all and everything not in violation of law that said board of directors and their successors may deem proper and to the interest of said corporators.

"And it is further ordained by the board of directors of said company that so much of the route and line of said road expressed be so changed by striking out 'Canyon City' and inserting in lieu thereof 'Camp Harney.'"

On the 19th day of August, 1871, formal articles of incorporation, specifying the business as above set forth, and the change in the line of road, were filed with the secretary of state.

Thus it was over four years after the passage of the act of Congress and after the gift by the legislature before the company had the power or authority to take or hold real or personal property, and when they did so acquire such a right it was over an entirely different route to that specified in the act of the legislature, or, in other words, the legislature gave them lands over one route and the company proposed to build the road over another; and they now hold the lands along a route or line not named in the act of the legislature, and in recognition of this claim the Departments have withdrawn all odd sections within 6 miles of this last line from settlement and the operation of the Government land laws.

We, your committee, have made as thorough examination and investigation of the amount of work done by this company as our limited time permitted, and to this end we have personally [examined] the line of road and taken the testimony of such settlers who were personally acquainted with the work, and whose testimony we believed entitled to full credit, and we find that after the company changed the line of their road so as to commence at "Albany, in Linn County," they laid their road from there to the foot of "Wiley Hill," in Sweet Home Valley, a distance of about 30 miles, over a long and well-established county road, a road that was opened and kept up, and in repair, by Linn County, and on which this company has never done any work or been to any expense whatever; from Wiley Hill east through the Cascade Mountains to Cache Creek, a distance of about 60 miles, the company have done some work and been to considerable expense; they built a narrow-grade wagon-road over which a light two-horse wagon could be driven, the grade being from 4½ to 6 feet in width, one-half of which was made from the loose dirt and logs; the standing timber was cut out of the grade, but no more; large trees were left standing so near the grade that in many places it was exceedingly difficult to drive a wagon between them. No turnouts were built, and, wagons meeting, one had to be unloaded and lifted by hand off the grade to allow the other to pass. This section crosses the Santiam River a number of times; these crossings were dangerous, full of large bowlders, oftentimes impassable by reason of high water, but none were ever bridged. From Cache Creek east to Washoe Ferry, on the eastern boundary of the State, and the terminus of the road, a distance of 358 miles, the company, beyond surveying the line of the road, never done or made any pretense of doing any work or building a road. Their surveys followed the Indian trails through the creek bottoms and valleys and over mountains and table-lands, from one section to another—trails that were passable for Indian ponies, but over which no wagon or vehicle of any kind could pass, and over which none has ever passed from the day of the survey to this. These trails were not graded anywhere except in one place near North Crooked River, and another on Buck Creek, and this work was of so slight a nature that no trace now exists. The brush was not cut from the sides of the trails, the banks of the many streams crossed were not cut down or made passable, and often even a horseback traveler would have to hunt up and down the streams for a crossing, and many of these streams were at all times utterly impassable for all kinds of vehicles. When the county through which this section of road passes was settled up the settlers, for their own convenience and from necessity, were compelled to build roads from one settlement to another, and these roads are the only roads now in that section, and the only roads ever used by the travel; these roads so built, and on which this com-

pany never expends one dollar, often follow the line of the company's survey for a distance; in other places they are miles away from it.

We respectfully call attention to the affidavits we have taken in reference to this road, which are attached to and made part of this report.

This road was examined and received by the governor through agents appointed by him for that purpose, and we report that after a diligent search through the records of the governor's and secretary of state's offices we have been able to find only the reports of two of these agents on file—A. McAlexander, who examined a section of 78 miles of road, commencing 290 miles east of Albany, and whose report is dated December 10, 1870; and the report of N. B. Humphrey, who examined a section of 30 miles of road, commencing 360 miles east of Albany, and ended at Washoe Ferry, the eastern terminus of the road. What has become of the other reports we are unable to say; but from an examination of the reports on file we are forced to say the governor received the road as completed upon very slight evidence.

After the passage of the act of Congress donating the land to the State of Oregon to aid in the construction of this road, all the odd sections within 6 miles of the original line of road, and after the change in the line all the odd sections within 6 miles of that line, making all the odd sections within a strip 12 miles wide from Albany to the eastern boundary of the State, was withdrawn from the operation of the public land laws, and was not open to settlement under any of the United States land acts, and all this land has been so withheld ever since. By reference to the company's grant from Congress you will see that the company in no event would be entitled to more than one-half of these odd sections, to "three sections per mile," yet for nineteen years six sections per mile have been withheld from settlement, and not only withheld, but we found upon inquiry among the settlers along the line of this road that the company claim all the odd sections, and are now actually demanding and collecting rent on all these sections, an act wholly without right and in no way short of robbery. And the quickest remedy for this wrong we would suggest that Congress be asked to at least throw these odd sections open to settlement.

In conclusion, we say that in the opinion of your committee the act of the legislature of this State of October 25, 1866, was in flagrant violation of the express requirements of this provision of the act of Congress, and was null and void, and the company received no rights thereby.

That at the time of the passage of the said act, and for over four years thereafter, the company had no legal power or authority to receive the grant, and the same was therefore null and void and conveyed no title.

That the grant of the legislature, being along a line of road by way of "Canyon City," conveyed no lands along a line of road "by way of Camp Harney," and that the company now, nor ever, has no title whatever in any lands along this new line.

That no road was ever built, and the pretense of the company to build a road was of the most fraudulent kind; that from its inception to the present time this company has been a fraud, and that its longer possession of these lands should be ended, and to that end we respectfully ask that the accompanying memorial to Congress be passed, and that the State take such steps as may be just and right to restore these lands to the public domain and public settlement.

Accompanying the report are sixty-four affidavits of settlers along the located lines of said wagon roads, all tending to show that no portions of said roads were properly constructed, and that some portions were not constructed at all.

Copies of said affidavits are hereto annexed, marked R 1 to R 64, inclusive.

With the official publication of this report is published senate joint memorial No. 6, passed at the said special session of the legislature of Oregon, which is as follows:

To the honorable, the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the legislative assembly of the State of Oregon, respectfully show that,

Whereas by an act of Congress, approved July 2, 1864, certain lands were granted to the State of Oregon, to aid in the construction of a military wagon road from Eugene City to the eastern boundary of the State; and by an act of Congress, approved July 5, 1866, other certain lands were granted to the State of Oregon, to aid in the construction of a military wagon road from Albany, by the way of Canyon City, to the eastern boundary of the State; and by an act of Congress, approved February 27, 1867, other certain lands were granted to the State of Oregon, to aid in the construction of a military wagon road from Dalles City, by way of Camp Watson, Canyon

City, and Mormon, or Humbolt Basin, to a point on Snake River, opposite Fort Boisé; and

Whereas, by several acts of the legislative assembly of the State of Oregon, provision was made for the transfer of said grants, respectively, to certain private corporations organized within said State, upon certain conditions of benefit to said State of Oregon and its inhabitants, to be performed by said corporations respectively; and

Whereas, by an act of Congress, approved June 18, 1874, provision was made for the issuing of patents for said lands by the United States, directly to said corporations, upon proof of their compliance with the conditions imposed upon them, by the acts of the legislative assembly of the State of Oregon, as aforesaid; and

Whereas, it appears to us, your memorialists, from the report of the commissioners heretofore appointed to investigate said wagon road, and affidavits herewith presented, that said corporations have in no manner complied with said conditions, but on the contrary thereof have failed, neglected, and refused to build or repair any roads along the routes over which they should have constructed them, in accordance with the intent and meaning of the acts of Congress, and of the legislative assembly of the State of Oregon aforesaid; and

Whereas, by means of false and fraudulent representations, and evidence of such compliance, said corporations have already obtained and are obtaining patents and lists for large portions of said land, and by means of similar false and fraudulent evidence, are about to obtain patents and lists for other large amounts of said lands, and under a claim of privilege and right of selection of lien lands within six miles limits on either side of the route of said patented roads, are withholding other large amounts of land in fraud of the Government and to the great detriment and injury of the State of Oregon and its inhabitants:

Your memorialists therefore pray that the grants of lands heretofore granted by the acts of Congress aforesaid be, so far as the same is not heretofore patented or listed, by act of Congress abolished, vacated and annulled and considered lapsed, and also all grants, rights, and privileges of selecting lien lands within six miles limits or other limits on each side of such granted lands be abolished, vacated and annulled and considered lapsed by an act of Congress; and in case patents have already issued by the United States for all or any part of said lands to said corporations, that your honorable body authorize suits to be instituted in the courts of the United States to vacate said grants and annul said lists, and patents so issued, except where lands have been acquired in good faith, for that through the fraud of said corporations in not building said roads there is no consideration for said grants, and the lists and patents have been obtained under representations which are not true.

And your memorialists will ever pray, &c.

The first clause of the preamble of the memorial as enrolled and signed, and as presented to the Senate and referred to your committee, is as follows:

Whereas by an act of Congress approved July 2, 1864, certain lands were granted to the State of Oregon to aid in the construction of a military wagon-road from Eugene City to the eastern boundary of the State, and by an act of Congress approved July 5, 1866, other certain lands were granted to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, by way of Camp Watson, Canyon City, and Mormon or Humboldt Basin, to a point on Snake River opposite Fort Boise.

By mistake, as is represented to the committee, and as is apparent from inspection, in enrolling this memorial, the words "to aid in the construction of a military wagon-road from Albany, by the way of Canyon City, to the eastern boundary of the State; and by an act of Congress approved February 27, 1867, other certain lands were granted to the State of Oregon" were omitted, so that the reference to the act of Congress making a grant to aid in the construction of a military wagon-road from Albany to the eastern boundary of the State is connected with the military wagon-road from Dalles City, by way of Camp Watson, Canyon City, and Mormon or Humboldt Basin, to a point on Snake River opposite Fort Boise, and there is no reference to the act granting lands to aid in the construction of the latter road. Your committee have, therefore, considered the memorial according to the intent of the legislature and as published with the aforesaid report of the State commissioners.

There have also been presented to the Senate and referred to the committee petitions, memorials, and resolutions of citizens of Oregon, alleging the failure of the wagon-road companies to comply with the conditions upon which said grants were made, and praying for a restoration of the granted lands to the public domain. A number of affidavits of settlers upon the public lands in the vicinity of the Oregon Central military road, in which it is stated in general terms that said road was either not constructed at all or was not properly constructed, have been received and considered by the committee, and are hereto attached, marked S 1 to S 12, inclusive.

The California and Oregon Land Company, a corporation incorporated under the laws of the State of California, claiming to be the owner of the Oregon Central military wagon-road grant, has presented to the Senate a memorial accompanied by affidavits tending to show the timely and proper construction of the road of the Oregon and Central Military Wagon-Road Company, and that said California and Oregon Land Company is a bona fide purchaser of said grant for a valuable consideration, which memorial, omitting the report of the survey and progress of construction of the road made by B. J. Pengra, superintendent to the Company in 1865, and made part of his affidavit, is attached hereto marked T, and affidavits accompanying it are marked T 1 to T 24, inclusive.

Alexander Weill, claiming to be the owner of the Willamette Valley and Cascade Mountain wagon-road grant has presented to the Senate a memorial, accompanied by affidavits tending to show the seasonable and proper completion of the road of said company, and that he is a bona fide purchaser of said grant for a valuable consideration.

The memorial of Mr. Weill is a legal argument rather than a statement of facts. A synopsis of it only is therefore presented. He refers to report No. 332, made by Mr. Upson from the House Committee on Military Affairs to the Forty-sixth Congress, and the affidavits then presented on his behalf are referred to and made part of his memorial. A synopsis of said memorial and copies of the affidavits referred to and made part thereof are hereto attached, and the memorial is marked U and the affidavits U 1 to U 18, inclusive.

Your committee are also informed that the Dalles wagon-road grant has been sold and transferred by the wagon-road company, and is now held by parties who, in like manner, claimed to be bona fide purchasers for value.

The question in the case of each grant as to whether such purchasers are in fact, or in law, *bona fide* purchasers for a valuable consideration, if the conditions upon which the grants were made were not in fact complied with, your committee propose shall be submitted to the court for judicial determination.

From the foregoing it is apparent that further investigation by a committee of Congress concerning the facts in relation to the seasonable and proper construction of the wagon-roads, to aid in the construction of which the aforesaid grants were made, would be profitless.

Congress has not the power to conclusively determine either the questions of fact or law upon which the title to said granted lands depends.

Your committee agree with the House Committee on Military Affairs in the conclusions reached by that committee in their report made at the third session of the Forty-sixth Congress, and of the Senate Committee on Military Affairs, in their report made at the first session of

the Forty-seventh Congress, concerning the grant of the Willamette Valley and Cascade Mountain Wagon-Road Company, "that the questions involved are judicial questions."

The questions of the seasonable and proper construction of the roads of the several companies, of the legal effect of the certificates of the governors of Oregon that said roads has been constructed in accordance with the conditions of the granting acts, and as to the right and power of the United States to resume such granted lands for breach of the conditions of the several grants, after a sale and conveyance of the same, are all questions that should be judicially determined.

Any act that Congress might pass attempting to settle the title to the lands in controversy would finally determine no question of law or fact, and would be subject to judicial construction by the ordinary processes of judicial proceedings, and might be called in question in any litigation in which the title to any portion of the lands embraced within the limits of either of said grants was involved.

Your committee believe it is of great importance to the people of the State of Oregon that the title of the lands embraced within the limits of wagon-road grants in said State should be speedily settled, and all controversies between the present owners of the grants and the State of Oregon and the United States, concerning such lands, should be adjudicated and determined.

The aggregate area of the Oregon Central military wagon-road grant, the Willamette Valley and Cascade Mountain military wagon-road grant, and the Dalles military wagon-road grant is about 2,157,000 acres.

The record title to all the granted lands is in the grantees of the wagon-road companies. The acts of Congress making the grants, proof of the location, and the certificates of the proper construction of the wagon-roads constitute the evidence of title of the State to the lands in place, and, when selected in accordance with the terms of the granting act, to the indemnity lands.

The case is not like that of a grant of lands upon condition subsequent in which there is no claim that the conditions of the grant have been performed—a case, for instance, of a grant to aid in the construction of a railroad which has not been constructed at all or only in part, and in which the time within which the road was required to be contructed has expired. In such a case an act of Congress declaring a forfeiture of the grant for the uncompleted road, being equivalent to an entry at common law for breach of condition, is sufficient to restore the granted lands to the public domain.

In the case of the grants in question full and timely performance of the conditions upon which they were made is alleged, and the only and indispensable proof of such performance was duly furnished and filed. Whatever may be the rights of the United States in the premises, therefore, the judgment of a competent court made in a judicial proceeding brought to impeach the certificates made by Governors Gibbs, Woods, and Grover, and to set aside the certifications of the lands which have been made and the patents which have been issued to the State, is necessary to settle the question of title and to restore the lands to the public domain. On the other hand, whatever the rights of the present claimants of those grants may be, it is certain that the charges now made by the State of non-compliance by the wagon-road companies with the conditions of the grants, and of fraud in obtaining the certificates of the governors of the State as to the proper and seasonable construction of the roads, constitute a cloud upon their title which can only be

grant is estimated at 861,000 acres, of which 548,749.53 acres have been patented to the company as follows:

	Acres.
June 19, 1876	107,893.01
October 30, 1882	440,856.52

In addition to the lands patented as above, selections to the amount of 96,147.95 acres have been made by said company, and are now pending in the General Land Office.

Said act of Congress and act of the legislative assembly of the State of Oregon were substantially like the acts relating to the grant of the Oregon Central Military Road Company. The evidence of completion required by the granting act was the same, viz, the certificate of the governor of the State to the Secretary of the Interior. Such certificates were filed and are as follows:

Certificate of Samuel E. May, secretary of state and acting governor of Oregon, dated April 11, 1868, under the seal of the State, that 180 miles of said road, extending from Albany in the direction of Canyon City, had been completed as required by the act of Congress approved July 5, 1866, and of the legislature of the State of Oregon. (Copy herewith, marked H.)

Certificate of George L. Woods, then governor of Oregon, dated September 8, 1870, under seal, that said road had been examined and accepted from the one hundred and fifty-third mile post to the two hundred and ninetieth mile post, at Camp Harney. (Copy herewith, marked I.)

Certificate of Hon. L. F. Grover, governor of Oregon, dated January 9, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the two hundred and ninetieth to the three hundred sixty-eighth mile. (Copy herewith, marked J.)

Certificate of Hon. L. F. Grover, governor of Oregon, dated June 24, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the three hundred and sixty-eighth to the four hundred and forty-eight seven-tenths mile, at the eastern boundary of the State. (Copy herewith, marked K.)

DALLES MILITARY ROAD.

The act of Congress approved February 25, 1867 (14 Stat., 409), granted to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, by way of Camp Watson, Canyon City, and Mormon or Humboldt Basin, to a point on Snake River opposite Fort Boise, Idaho, alternate sections of public lands, designated by odd numbers, to the extent of three sections in width on each side of said road, with the right to select from the alternate odd-numbered sections within 10 miles of the road an additional amount of land equal to the amount reserved from the operation of the grant.

By act of its legislature approved October 20, 1868 (Laws of Oregon, 1868, p. 3), the State of Oregon conferred said grant upon Dalles Military Road Company.

The grant for said road is estimated at about 576,000 acres, of which about 325,000 acres have been surveyed and 126,910.23 acres were patented to the road company June 19, 1876, and additional lands to the amount of 49,554.25 acres have been selected, and the selections are now pending in the General Land Office, leaving about 449,090 acres unpatented.

the Interior has transmitted copies of all maps and papers on file in the Department relating to these grants. They are not embraced in the bill reported by your committee, because they are not included in the memorial of the legislative assembly of the State of Oregon, and the papers and documents transmitted by the Secretary of Interior do not disclose any sufficient cause for calling in question, on behalf of the United States, the seasonable and proper construction of said roads.

[Senate 2241, Forty-ninth Congress, first session.]

A BILL providing in certain cases for the forfeiture of wagon-road grants in the State of Oregon.

Whereas the United States have heretofore made various grants of public lands to aid in the construction of different wagon-roads in the State of Oregon, and upon the condition that such roads should be completed within prescribed times; and

Whereas said grants were transferred by said State to sundry corporations, who were authorized by the State to construct such wagon-roads and to receive therefor the grants of lands thus made; and

Whereas the Department of the Interior certified portions of said lands to the State of Oregon upon the theory that said roads had been completed as required by the granting acts of Congress, and upon the certificate of the governor of the State of Oregon as to such completion; and

Whereas the legislature of the State of Oregon has memorialized Congress and therein alleged that certain of said wagon-roads, in whole or in part, were not so completed, and that to the extent of the lands coterminous with unconstructed portions the certifications thereof by the Department of the Interior were unauthorized and illegal: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby made the duty of the Attorney-General, within six months after the passage of this act, to cause suit or suits to be brought, in the name of the United States, in the United States circuit court for the district of Oregon, against all persons, firms, and corporations claiming to own or to have an interest in the lands granted to the State of Oregon by the following enumerated acts of Congress, to wit:

"An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," approved July 2, 1864;

"An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State," approved July 5, 1866;

"An act granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dallas City, on the Columbia River, to Fort Boise, on the Snake River," approved February 25, 1867, to determine the questions of the seasonable and proper completion of said roads in accordance with the terms of the granting acts either in whole or in part, the legal effect of the several certificates of the governors of the State of Oregon of the completion of said roads, and the right of resumption of such granted lands by the United States, and to obtain judgments which the court is hereby authorized to render, declaring forfeited to the United States all of such lands as are conterminous with the part or parts of either of said wagon-roads which were not constructed in accordance with requirements of the granting acts, and setting aside patents which have issued for any such lands, saving and preserving the rights of all *bona fide* purchasers of any portion of said grants for a valuable consideration, if any such there be.

Said suit or suits shall be tried in like manner and by the same principles and rules of jurisprudence as other suits in equity are therein tried, with right to writ of error or appeal by either party as in other cases, and if any person, firm, or corporation having or claiming an interest in any of said lands shall be made defendant in such suit or suits, and in the judgment of the said court be a necessary or proper party defendant, and shall not be an inhabitant of, or found within the said district, and shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing said absent defendant or defendants to appear, plead, answer, or demur by a day certain to be designated, which order shall be served upon such absent defendant or defendants in the manner provided by section 8 of an act entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875: *Provided*, That both in the said circuit court and upon appeal in the Supreme Court said suit or suits shall be advanced to hearing in preference to all other civil cases on the dockets of either of

said courts: *And provided further*, That no right of appeal shall exist after six months from the entering of a final decree in said circuit court.

SEC. 2. That the State of Oregon, and any person or corporation claiming any interest in the lands to be affected by said suit or suits, and whether made a party thereto or not, may intervene therein by sworn petition to defend his interest therein, and may, upon such petition for intervention, also put in issue and have adjudicated and determined any other question, whether of law or of fact, which may be in dispute between said intervenor and the United States, or between themselves, and affecting the right or title to any part of the lands claimed to have been embraced within the grants of lands by the United States to or for either of said wagon-roads: *Provided further*, That the lands actually settled upon, or occupied and used as a homestead or for agricultural or grazing purposes, in cases in which such settler or occupant has acquired the title of the State of Oregon under the grants recited in the first section of this act to the same, not exceeding one section to any one settler or occupant, shall not be included in such suit, and such settler or occupant shall not be made a party thereto, anything in this act to the contrary notwithstanding.

APPENDIX.

A.

AN ACT granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State. Approved July 2, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military wagon-road from Eugene City by way of Middle Fork of Willamette River and the most feasible pass in Cascade range of mountains near Diamond Peak to the eastern boundary of the State, alternate sections of public lands designated by odd numbers for three sections in width on each side of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be, and the same are, reserved from the operation of this act except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon-road and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: That a quantity of land, not exceeding thirty sections for said road, may be sold; and when the governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections, may be sold, and so from time to time until said road is completed; and if said road is not completed within five years no further sales shall be made, and the land remaining unsold shall revert to the United States.

B.

AN ACT donating certain lands to the Oregon Central Military Road Company.

Whereas the last session of the Congress of the United States passed a certain act donating lands to the State of Oregon, which act is here set forth to wit:

"AN ACT granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be and hereby is granted to the State of Oregon, to aid in the construction of a military wagon-road from Eugene City, by way of Middle Fork of the Willamette River and the most feasible pass in the Cascade range of mountains near Diamond Peak to the southern or eastern boundary of the State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of the road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent

authority be, and the same are, reserved from the operation of this act, except so far as may be necessary to locate the route of said road through the same, in which case the right of way is granted.

"SEC. 2. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of by the legislature thereof for the purpose aforesaid and for no other, and the said road shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the transportation of any property, troops, or mails of the United States.

"SEC. 3. *And be it further enacted*, That said road shall be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon-road and in such other special manner as the State of Oregon may prescribe.

"SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say, that a quantity of land not exceeding thirty sections for said road may be sold, and when the governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections sold, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States:"

Therefore,

Be it enacted by the legislative assembly of the State of Oregon:

SECTION 1. That there is hereby granted to the Oregon Central Military Road Company all lands, right of way, rights, privileges, and immunities heretofore granted or pledged to this State by the act of Congress, in this act heretofore recited, for the purpose of aiding said company in constructing the road mentioned and described in said act of Congress upon the conditions and limitations therein prescribed.

SEC. 2. There is also hereby granted and pledged to said company all moneys, lands, rights, privileges, and immunities which may be hereafter granted to this State, to aid in the construction of such road, for the purposes and upon the conditions and limitations herein mentioned or which may be mentioned in any further grant of money or lands to aid in the constructing such road.

SEC. 3. Inasmuch as there is no law upon this subject at the present time, this act shall take effect from and after its passage.

Approved October 24th, 1864.

C.

AN ACT to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State" be amended as follows: That there be, and is hereby, granted to said State, for the purposes aforesaid, such odd sections or parts of odd sections, not reserved or otherwise legally appropriated, within 6 miles on each side of said road, to be selected by the surveyor-general of said State, as shall be sufficient to supply any deficiency in the quantity of said grant as described, occasioned by any lands sold or reserved, or to which the rights of pre-emption or homestead have attached, or which for any reason were not subject to said grant within the limits designated in said act.

Approved December 26, 1866.

D.

AN ACT to authorize the issuance of patents for lands granted to the State of Oregon in certain cases, approved June 18, 1874.

Whereas certain lands have heretofore by acts of Congress been granted to the State of Oregon to aid in the construction of certain military wagon-roads in said State, and there exists no law providing for the issuing of formal patents for said lands: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases when the roads, in aid of the construction of which said lands were granted, are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for

said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon their payment of the necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired nor to create any new rights of any kind, except to provide for issuing patents for lands to which the State is already entitled.

E.

STATE OF OREGON, EXECUTIVE DEPARTMENT,
Salem, July 27, 1866.

SIR: I hereby certify that in accordance with an act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State," and in accordance with the act of the legislative assembly of the State of Oregon, approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," I have passed over and carefully examined the first 50 miles of the Oregon Central Military Road, beginning at Eugene City and extending eastward and towards the southern or eastern boundary of the State of Oregon.

And I further certify that the first continuous 50 miles of said road, beginning at Eugene City, are completed in accordance with the requirements of said act of Congress and the laws of Oregon.

In witness whereof I have hereunto set my hand and caused the great seal of the State of Oregon to be affixed.

ADDISON C. GIBBS,
Governor of Oregon.

By the governor:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

The SECRETARY OF THE INTERIOR.

F.

STATE OF OREGON, EXECUTIVE OEFICE,
Salem, November 26, 1867.

To all to whom these presents shall come, greeting:

This certifies that the section of the Central Military Road extending from the point to which it has already been approved, to Crescent Lake in the valley of the Deschutes, being 42½ miles, more or less, having been carefully inspected and found to be well and faithfully built and fully up to the requirements of the law, therefore the same is approved and received.

In witness whereof I have hereunto signed my name and caused the seal of the State of Oregon to be affixed, the day and the year first above written.

GEO. L. WOODS.

Attest.
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

G.

STATE OF OREGON:

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of the Oregon Central Military Road, has been duly filed in my office by the said Oregon Central Military Road Company, and shows that portion of the said road commencing at Eugene City, Oreg., and ending at the eastern boundary of the State, which has been completed as required by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the act of the legis-

lative assembly of the State of Oregon, approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," granting lands to said company.

In testimony whereof I have hereunto set my hand and caused the great seal of the State to be affixed.

Done at Salem on this the 12th day of January, A. D. 1870.

GEO. L. WOODS,
Governor.

By the governor:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

H.

STATE OF OREGON, SECRETARY'S OFFICE,
Salem, April 11, 1868.

I, Samuel E. May, acting governor of the State of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road has been duly filed in my office by the said Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows that portion of the said road, commencing and ending as designated on the map, has been completed as required by the act of Congress approved July 5, 1866, and the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon Road Company," granting lands to the said road company.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the day and year above written.

[SEAL.]

SAMUEL E. MAY,
Secretary of State and Acting Governor.

I.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all to whom these presents shall come, greeting:

I, George L. Woods, governor of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road has been filed in my office by the Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows, in connection with the public surveys, the location of route of the extension of said road as actually surveyed from the 153d mile-post east from the city of Albany, Oreg., extending fourteen sections to Camp Harney in the line of said road, as definitely fixed in compliance with the act of Congress approved July 5, 1866, entitled "An act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State;" and with the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Military Wagon Road Company," granting certain lands to the company herein mentioned, and that said "extension" of said road by my direction has been examined and accepted from the 153d mile-stake near Deschute's meridian in section 6, in township 15 south, range 18 east, to Camp Harney, and embracing the 29th section inclusive.

In testimony whereof I hereunto set my hand and cause the seal of the State of Oregon to be affixed. Done at Salem on this the 8th day of September, A. D. 1870.

GEO. L. WOODS,
Governor of Oregon.

By the governor:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

J.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all to whom these presents shall come, greeting:

I, L. F. Grover, governor of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Road has been filed in my office by the Willamette Valley and Cascade Mountain Military Road Company, and shows, in connection with the public surveys, the location of route as actually surveyed of the said Willamette Valley and Cascade Mountain Military Road, from Albany, extending from the twenty-ninth section to the thirty-sixth and eight-tenths section in the line of said road, as definitely fixed in compliance with the act of Congress approved July 5, 1866, entitled an act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State, and with the act of the legislative assembly of the State of Oregon, approved October 24, 1886, entitled an act donating lands to the Willamette Valley and Cascade Mountain Military Road Company, granting certain lands to the company herein mentioned, and that said road, by my direction, has been examined and accepted from the twenty-ninth section to the thirty-sixth and eight-tenth section, inclusive, and I certify that the same has been completed according to said act of Congress.

In testimony whereof I have hereunto signed my name and affixed the seal of Oregon this 9th day of January, A. D. 1871.

L. F. GROVER,
Governor.

[SEAL.] S. F. CHADWICK,
Secretary of State.

K.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all to whom these presents shall come, greeting:

I, L. F. GROVER, governor of the State of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road has been filed in my office by the Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows the location of route as actually surveyed (there being no public surveys in connection with said route to my knowledge) of the said Willamette Valley and Cascade Mountain Military Wagon Road, from Albany to the eastern boundary of the State. That part herein being from the 36.8 section to the 44.87 sections, inclusive, in line of said road, terminating at the eastern boundary of the State of Oregon, as definitely fixed in compliance with the act of Congress approved July 5, A. D. 1886, entitled "An act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State," and with the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Military Wagon Road Company, granting certain lands to the company therein mentioned;" and that said road, by my direction, has been examined and accepted from the 36.8 section to the 44.87 section, inclusive, terminating at the eastern boundary of the State of Oregon aforesaid. And I certify that the same has been completed according to said act of Congress.

In testimony whereof I have hereunto signed my name and affixed the seal of the State of Oregon this 24th day of June, A. D. 1871.

L. F. GROVER,
Governor of Oregon.

Attest:
[SEAL.] S. F. CHADWICK,
Secretary of State.

L.

EXECUTIVE OFFICE,
Salem, Oreg., June 23, 1869.

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of The Dalles military road has been duly filed in my office by The Dalles Military Road Company, and shows in connection with the public surveys, as far as said public surveys are completed, the location of the line of route as actually surveyed and

upon which their road is constructed in accordance with the requirements of an act of Congress approved February 25, 1867, entitled "An act granting lands to the State of Oregon to aid in the construction of a military wagon road from Dalles City, on the Columbia River, to Fort Boise, on Snake River," and with the act of the legislative assembly of the State of Oregon approved October 20, 1868, entitled "An act donating certain lands to Dalles Military Road Company." I further certify that I have made a careful examination of said road since its completion, and that the same is built in all respects as required by the said above-recited acts, and that said road is accepted.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Oregon.

Done at Salem, Oreg., June 23, 1869.

GEO. L. WOODS.

Attest:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

M.

REPORT ON THE OREGON CENTRAL MILITARY WAGON-ROAD.

SIR: I have the honor to report to the Department that on the 30th of May, 1880, I was summoned from Florida, where I was on special duty, to Washington. On reporting to the Commissioner I was directed to inform myself on the questions pertaining to the claims of the State of Oregon for "swamp lands."

In preparing lists and plats, and making myself familiar in the records bearing on my special duty, my attention was called to pending contests for lands under special grants, protests by citizens and settlers, against the transfer of certain lands for the "benefit and use of the Willamette and Cascade Military Wagon-Road Company, and the Oregon Central Military Wagon-Road Company."

The assertion was made that these companies had not constructed their roads in accordance with the law and specifications regulating the building of public highways in the State of Oregon; therefore, the companies had forfeited their rights to lands claimed as earned, &c.

I was informed that a special agent would be sent to examine and make report on the Willamette and Cascade military road, and the instructions being prepared for this agent, when deemed as sufficient for my guidance in making examination of the Oregon Central military road, viz: "Examine as to practicability of the road in relation to travel as a highway, the location of bridges, the neglect to build bridges where needed, and by intercourse with the people and your own observations learn the previous history and its present condition; learn whether it was, and now is, such a road as was contemplated by the statutes." These observations and inquiries were to be carried by notes made from time to time, as my special duty and travels carried me east along the line of this road from Eugene City to the eastern boundary of the State, over Lane, Lake, Grant, and Baker Counties, so as to be prepared at any time when called on to be able to make a report on the entire road, or any portion thereof, in aid of the officers of the Department to determine or not to issue further lists or patents for lands to the company or to the State for the use of the land company.

HISTORY OF THE ROAD.

To recite in detail the history of the road and motives for construction would be out of place in this report, more interesting than useful. Briefly, Eastern Oregon was an Indian country; Western Oregon was a white man's country, who coveted the former for a stock range; the Klamaths and other equally warlike tribes resisted encroachment; the whites gradually gained a foothold, but, widely scattered among the aborigines, they were in constant danger. There was no road direct into the Willamette Valley for retreat or supplies or for aid in event of uprising by the Indians, or to conquest the coveted "bunch-grass country."

The people on the other side of the Cascades were too poor to build and construct a highway over the mountains and across the State wherein nature had builded barriers as difficult as in any other part of the territory of the United States. Equal in difficulties "and an extension of the Sierras" that engrossed the attention of the Government and statesmanship of the days of war, when Mr. Lincoln, the wise head of the nation, was fostering every measure and means that would protect every portion of the territory be-

longing to the people and "tie with iron bonds the West with East to the shores of the Pacific."

The Congress was appealed to for aid, and by an act (copy and amendments herewith, and made part of this report), dated July 5, 1864, gave lands from contiguous domain, made practicable by the right to sell "earned lands on completion of each 10 miles of road."

On arrival in Oregon, and conferences and adjustment of orders with the governor and other officials, State and Federal, I went to Eugene City; there contracted wagon transportation for my personal effects, camp and other necessities, and on the 12th of September, 1880, started, horseback, *en route* over the Oregon Central Military Wagon Road for the Little or Lower Klamath Lake, where I was to begin my "investigations of swamp lands."

THE CHARACTER OF THE COUNTRY AND LOCATION OF THE ROAD.

East of Eugene City, for about 16 miles, the road is in the valley of the Willamette River, and presents no obstacle worthy of special mention to the building of a good wagon-road. The crossings at the Coos Fork and the East Branch of the Willamette River, 8 and 16 miles east of Eugene City, were supplied by ferries for high stage, and the naturally good fordings in low water were deemed sufficient, and met the demands of travel when the road was located.

From this point the road begins the passage through and over the Cascade Mountains to the foot of the same, at Klamath Marsh, about 160 miles.

The portion between the crossing of the Willamette to the Middle Fork of the Deschutes River (township 24 south, range 7 east), about 100 miles, was, and is, the most expensive. It is a difficult country to describe and put in limited words of an official report. The entire distance is densely timbered with fir, black and yellow cedar, sugar, and a species of yellow pine—gigantic—all of immense growth, with an undergrowth of smaller corrifera and vine maple, often dense and difficult, especially in the lower levels and near the river and in protected places in higher grounds.

The road line follows the windings of the Middle Branch of the Willamette River on the north bank to the summit of the Cascades, the direction being southeast, but tortuously around the base of Diamond Peak. The storm center of the Willamette and Deschutes, always snow-crowned, with a glittering cap, guarding a ragged divide, steep and difficult up the west side and down a mountain stream boundary lined to the inviting shores of Crescent Lake (township 24 south, range 6 east). This 100 miles was the most expensive and difficult of location and construction and permanency. It was the key point to the "control and conquest of Eastern Oregon."

The grading was carried through most tenacious and difficult material, in addition to the surface obstructions of timber and logs and brush, up steeps, around jutting headlands closing down to the river-bank, crossing named and unnamed tributary streams and brooks, all formidable enough to require bridging. I enumerated eight bridges of consequence and many smaller ones on the west slope.

From Crescent Lake (township 24 south, range 6 east) southwest 60 miles the road seeks the slopes of the ridges into the valleys, over rolling hills, on easy grade. The fir-cedar and tangle of the west slope is here represented by open pine wood on the higher grounds, the aspen and willow, frost painted, lining the banks of the water-courses. From the marsh to the west line of Grant County, 160 miles, the country is made up of mountain spurs, detached buttes, ridges, rock-crested rolling foot-hills, with winding valleys between; the higher lands timbered often densely, particularly on north slopes; the southern slopes sparsely with juniper. The valley lands produce a luxuriant growth of wild clover and other native grasses fit for hay. These are the coveted lands for winter pasture when the snow has driven the herds from the bunch-grass ranges of the mountains. The road after crossing the marsh follows the plain south until the intersection of the Sprague River Valley (township 35, range 9 east) turns east and follows the river to its head. No better line could be selected to penetrate into the country beyond. One bridge (township 36 south, range 9 east) of about 20 feet space and several smaller ones were constructed in the valley of the Sprague River, and all that were necessary in a distance of 100 miles eastward from the marsh. The road after leaving Sprague River for a distance of 6 miles, unavoidably crosses "The Devil's Garden," the base being volcanic ashes, with surface thickly strewn with bowlder trap. A few scattering juniper and rabbit brush add only to the misery of the traveler in his climbing through the rolling rock. Neglect and indifference has not improved the way since it was cleared by the builders. The succeeding 20 miles over the divide into Drew Valley is on excellent ground and easy grades. The altitude is high enough to hold the snow fall, and it accumulates during the winter to a depth of 6 to 8 feet. Reaching the Drew Creek, it is followed over the natural meadows of this most beautiful vale to the steep divide, pine-crowned, *skillfully* surmounted by zigzag turnings.

Then for many miles the roadway leads through sage-brush plains into Goose Lake Valley, and across it to the foot of Warner Cañon. It would have required wide detours and search to find bad ground for a road. A wagon can safely be driven in any direction, and small streams were bridged with poles, long since appropriated by campers.

From the base of Warner Mountain (township 38 south, range 20 east) to the terminal points of the road is a country of totally different character from that which is behind in our description. The distance via the road line is 240 miles, as estimated. It is a table-land of great altitude, ash plains and lava flow intermingling with alkali flats, with ponds of brackish water unfit to use, bald mountains, and foot-hills. Occasionally the country is cut across by the ragged spur of rock ridge, and again gashed by river rock-cañons down deep below the surface of the country. In these are found the limited water of the country. Wide detours are compelled by these cañons. These and the scarcity of water and fuel make it a dangerous country for the ignorant traveler. The timber has disappeared from the mountain slopes and cañons, save in a few notable places, viz, around Warner Lake and Stein Mountain, an occasional juniper is to be found amid the rock, in sheltered coves. This is a bunch-grass country; but for it much of this vast region would be a total waste. The snow-fall is heavy, but a strong mineral rock and earth melts it almost as soon as it is deposited. This gives an abundance of water. In the winter the preserved grass, saved by lack of summer water for stock, is the winter resort for cattle and other stock. The ranchers north and south drive to the desert. I might add that this country extends from the Deschutes River on the west to the borders of East Oregon, averaging about 125 miles in width. Stockmen claim that this is the most valuable range in the West, for here is a pasture that cannot be taken by the farmer and agriculturist.

The road from the Warner Cañon to Camp Three Forks, at the east terminus, is over the military trail pioneered by General Crook, who followed the hostile Indians over their trail into the fastness of the Blue Mountains. He made this trail famous and enduring, for it is the only route that supplies living water for a long distance on either side; hence the best location for a road.

CONCLUSIONS.

This road was constructed and lands earned under the law of Oregon, act of 1862, regulating highways, requiring a "roadway 30 feet clear of timber, 16 feet in center of this 30 feet for track, where the cut is 6 feet or more, the track to be 10 feet wide in narrow places, sidings 16 feet wide every quarter of a mile."

I carried this law in memorandum and found no especial violation or evasion of its requirements. On the contrary, it was exceeded favorably over the Cascades where there was an inducement to avoid expenses. Thereafter it was easy of fulfillment. When I heard adverse complaints of the manner of constructian I would ask what the law required, and for location of the place where the road was not up to specifications. I seldom found a complainant who could repeat the law or point out the place.

These discontented persons represented the "tender-foots" of the border, who had made their way into this country by this and other highways long after their building, who think it is their right to regulate all affairs in the country of their choosing; especially in their view it is the duty of the Government to give them homesteads, wherever there is vacant land, regardless of former disposal.

The pioneers or old settlers, without exception as I recall, approved a grant, and in many cases said: "Signed a petition for it; it was good work; it's a good road even now. We drive our stock to the Willamette for sale; bring back herds of young stock; send our teams over for supplies; our friends visit us; we go over to see them. Long ago when we were few and the Indians were plenty, and all was threatening, we had no place of retreat or to go to for safety, nor was there a way for help to reach us in case of war, when this grant was asked by us, and the people of the Willamette Valley, sanctioned by the governor and urged by Nesmith, the friend of Lincoln, who approved, and Congress approved and gave the land, the construction went on with enthusiasm. The road was well built, the bridges were good; we used the road when it was new, and it was the only good road in this part of this country. It was popular with all; it served a good purpose; we did not value the land, for land was plenty, without an outlet it was nearly valueless; we desired a way out and in, and we got it. When the road was built and accepted by the governor and General Applegate we approved. We all thought we were doing the right thing then and believe we did now."

The preservation of this highway now is a matter for the counties through which it passes. Portions of it is abandoned. The location of settlements and development of the country has brought other routes into use.

The roadway, a strip 60 feet wide, is private property, and as such will have to be sustained by toll. It is doubtful if the limited travel would keep it in good condition, par-

ticularly over the Cascades, where it can be used only for a few months in the summer—"after 1st of June to 1st of November. Thereafter it is blocked by snow, often averaging 20 feet in depth on the summit."

The lands earned by the construction were sold by the company to the Oregon-California Land Company for valuable consideration and bona fide purchase.

In conclusion, I must say that after passing over the road, and with a prejudice against it gained from rumors, traveling hither and thither along and across it for nearly two years, mingling freely with the settlers and hearing their views, publicly and privately expressed, with and without knowledge of my mission as a reporter on the merits of the road and the questions involved regarding the land grant, I cannot fail in justice and good faith to facts gleaned from all sources and my personal observation to declare that there is no good and sufficient reason why the lands retained should not be transferred in accordance with the law.

Respectfully submitted by your obedient servant,

R. V. ANKENY,
Special Agent.

Hon. N. C. McFARLAND,
Commissioner General Land Office, Washington, D. C.

N.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 27, 1880.

SIR: By act of Congress approved July 5, 1866, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State" (14 Stat., 89), there were granted, by section 1, "alternate sections of public lands designated by odd numbers, 3 sections per mile, to be selected within 6 miles of said road: *Provided*, That the lands hereby granted shall be exclusively applied to the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever." There were reserved from the operation of the grant any and all lands theretofore reserved to the United States, except as to the right of way.

Section 2 provided that the lands granted should be disposed of by the legislature of the State "for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States."

Section 3 enacted "that said roads shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon-road, and in such other special manner as the State of Oregon may prescribe."

Section 4 provided that when 10 miles of the road should be completed, not exceeding thirty sections might be sold, coterminous to such completed road; and when the governor of the State should certify to the Secretary of the Interior that any 10 continuous miles of said road were completed, then another quantity not more than thirty sections, coterminous, might be sold, and so on, from time to time, until completion of the road; "and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States."

The act did not in any manner provide for the certification or patenting of the lands granted by the United States.

By act of Congress approved June 18, 1874 (18 Stats., p. 80), after reciting that grants of land had been made to Oregon to aid in the construction of wagon-roads, without provision for the issuing of patents, it was provided:

"That in all cases when the roads in the aid of the construction of which said lands were granted are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interest in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon their payment of the necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired, nor to create any new rights of any kind except to provide for issuing patents for lands to which the State is already entitled."

There are on file in this office four duly executed maps, showing the line of the Willa-

mette Valley and Cascade Mountain military wagon-road as surveyed, located, adopted, and constructed, viz:

(1) From Albany to the one hundred and fifty-third mile, sworn by the surveyor and certified by the president, under the seal of the company, February 18; 1868, and by the secretary of state as acting governor February 20 and April 11, 1868.

(2) From the one hundred and fifty-third to the two hundred and ninetieth mile, sworn by the surveyor July 23, certified by the president July 25, and by the governor September 8, 1870.

(3) From the two hundred and ninetieth to the three hundred and sixty-eighth mile, sworn by the surveyor January 6, 1871, certified by the president December 10, 1870, and by the governor January 9, 1871.

(4) From the three hundred and sixty-eighth to the four hundred and forty-eighth and seven-tenths mile, the eastern boundary of the State and the terminus of the road, sworn by the surveyor, and certified by the president and by the governor June 24, 1871.

The affidavits and the certificates of the president on each map are in the usual form, and the certificate of the governor in each instance is to effect that the portions of the road shown had been completed in accordance with the act of Congress making the grant, and with an act of the legislative assembly of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon-Road Company," and that said road, so completed, had been examined and accepted.

Thus the formal legal evidence of the survey, location, adoption, construction, and completion of the road, and of its acceptance by the State, in accordance with the granting act and with the legislation of the State, seems to be full and complete. Upon that evidence the odd sections within 6 miles of the road have been withdrawn for the benefit of the grant, and they so remain. Upon regular selections made there were patented to the State for the use and benefit of the company named, June 19, 1876, 107,893.01 acres of land.

There are now pending lists of selections by the company to the amount of 446,600.73 acres of land, and I am urged to immediately prepare lists for approval by you, and thereupon to issue patents to the company direct.

The grant amounts to more than 860,000 acres, and there can probably be found within the limits nearly the entire quantity free from conflict.

August 20, 1878, there was referred to this office from the Department a communication from Elisha Barnes, dated Prineville, Wasco County, Oregon, March 17, 1878, herewith inclosed. He asserts that the company has not constructed the road in accordance with State laws: that the only work ever done on the road was such as, in places, made it barely possible to pass over it with lightly-loaded vehicles in summer and autumn, at times of low water; that "from Smith's Rock to the eastern boundary of the State, a distance of about 300 miles, there has been no attempt to open or construct a road by the above-named company or any one else." He asks an investigation as to the manner in which the work on the road has been done, and asserts that hundreds of citizens will testify to the truth of his allegations.

Appended to this letter is a certificate signed by three other persons to the substantial truth of his assertions.

I also inclose a copy of a letter to Mr. Barnes, in reply, dated October 2, 1879.

I am well aware how little weight should ordinarily be given to unsworn allegations of this character, but, taking into consideration the magnitude of the grant, the remote location of the road and the lands, and the meager information in my possession, aside from the certificates on the maps, as above set forth, after full consideration, I deem it my duty to submit the matter for your determination, whether or not any investigation is called for in the premises, and for your instructions as to whether or not, without further inquiry, I shall prepare from the selections on file clear lists for your approval, to be followed by patents to the company in due course.

I have to add that should an investigation on the ground be deemed advisable, I am not aware of any provision of law by which the money necessary to meet the expense could be paid.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

O.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., August 16, 1880.

SIR: By act of Congress approved July 5, 1866 (14 Stat., 89), there were granted to the State of Oregon certain lands to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of the State. Section 3 of said act provided "that said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon-road," &c.

There are on file in this office papers and maps presented by the Willamette Valley and Cascade Mountain Wagon-Road Company, the grantee of the State, to show its compliance with the law and the construction of the entire road, covering a distance of 448.7 miles. It is claimed that the road was completed in 1871.

By a letter on file from Elisha Barnes, of Prineville, Wasco County, Oregon, dated March 17, 1878, it was asserted that the company had not constructed the road in accordance with the law; that the only work ever done on the road was such as in places made it barely possible to pass over it with lightly-loaded vehicles in summer and autumn at times of low water; that "from Smith's Rock to the eastern boundary of the State, a distance of 300 milles, there has been no attempt to open or construct a road by the above-named company or any one else." He asserts that hundreds of citizens will testify to the truth of his allegations,

Bearing in mind the requirements of section 3 of the act of Congress herein referred to, you will proceed to make a careful and personal examination on the ground of the entire line of route, from the initial point at Albany to the eastern boundary of the State. You will ascertain the present condition of the road with reference to its fitness for "regular use as a wagon-road," in whole or in part, its general graduation and width, the location of any and all bridges on the line, and the absence of bridges where they are necessary and practicable.

You will use every possible means, by intercourse with the people or in any way, to inform yourself what has been the previous condition of the road, and whether or not it has ever been such a road as was contemplated by the statute.

During your examination you should make full and complete notes of all facts learned and information acquired, locating particular portions of the line as exactly as possible.

When you have completed your examination and inquiries, you will make a report in writing to this office, setting out fully and in detail the result of the same, and stating your opinion as to whether or not the road has been constructed in the prescribed manner.

Of course, in such an investigation, much must be left to your judgment and discretion which would not be embraced in instructions from this distance, but, in proceeding, you must keep in mind that the object in view is to determine whether or not the lands granted have been lawfully earned.

For your information I inclose a copy of the granting act.

You will forward your accounts for compensation for your service, at $5 per diem, for the time employed, and actual traveling and other necessary expenses incurred, the same to be verified under oath, setting forth the time actually and necessarily employed, and to be accompanied by vouchers for expenses incurred whenever practicable.

During the time you are employed on this work you will be paid from another appropriation than the one from which you are now paid as special agent to prevent trespasses upon the timber on the public lands, and will therefore keep an accurate account of time and necessary expenses while making the examination.

Payment of your per diem and expenses will be made out of the moneys appropriated by act of Congress approved June 16, 1880, for contingent expenses of local land offices.

Very respectfully,

M. E. N. HOWELL,
Acting Commissioner.

Hon. W. F. PROSSER,
Seattle, Wash.

P.

SEATTLE, WASH., *October* 30, 1880.

SIR: I have the honor very respectfully to submit the following report in answer to your letter of instructions of August 16 last past, directing me to make an examination of the Willamette Valley and Cascade Mountain wagon-road, from Albany, Oreg., to the

line which separates Oregon from the Territory of Idaho, a distance of 448.70 miles. In obedience thereto I left Seattle, Wash., on the morning of September 16, and arrived in Albany on the 20th following, During the next three days I obtained such information as I could in relation to the road, its history, and construction. Finding that I should probably have some difficulty in going over the line of the road I engaged Mr. Jason Wheeler, of Albany, Oreg., to accompany me with a spring wagon drawn by two horses. Mr. Wheeler had been a leading stockholder and director of the company which built this road and was one of the first settlers of Willamette Valley. He had superintended the location and construction of the road (as far as the work of construction was carried on) from Albany to Fort Harney, a distance of 293½ miles, and, being familiar with the country through which the road passes, I deemed it important to secure his services. It had also been arranged that Milton Hale, an old resident of the vicinity of Albany and a stockholder and director of the original company which built this road and received the land grant, should go with us, but before our preparations were completed for traveling Mr. Hale declined to go, for the reason, as he stated, that his private business would not permit him to leave home for the time which would be required by the journey.

This I regretted, because Mr. Hale was the only man I could find who knew anything of the line of the road from Fort Harney to the Oregon State line, a distance of about 155 miles. Mr. Hale also stated that, as far as he knew, there had never been but one wagon through or over that portion of the road, unless within the past one of two years; and it would therefore be difficult to follow. I was quite anxious that he should go with us, but no inducements that I could offer seemed sufficient to secure his services. However, Mr. Wheeler and I determined to go alone. The lateness of the season, with the possibility of snow-storms blockading the road—not unusual in October—made it desirable that no time should be lost either in going or returning. Camp equipage and provisions were procured, as it would be necessary to camp out occasionally where there are no settlements, and our preparations being completed we left Albany on the morning of the 24th of September, and on the fourteenth day of our travel, or on the 7th of October. about 12 m., after traveling about 340 miles, we reached the last trace of the road which we could discover, and as we could follow it no further we were reluctantly compelled to return to Albany by the same way we had gone out. We arrived at Albany on the evening of October 19, having traveled twenty-six days consecutively. But for the lateness of the season I should have devoted more time to inquiries amongst the citizens along the line of the road as to its original construction and present condition, but the material facts in connection therewith are presented here, with affidavits of a few reliable and respectable citizens—as I am informed—which will, I presume, be sufficient to establish the general character of the road and to secure a full comprehension of the questions at issue. I shall make my statements as brief as possible.

HISTORY OF THE ROAD.

In the years 1863 and 1864 the citizens of Linn County, Oregon, including Albany. chiefly farmers and stock-raisers, desiring to secure direct communication with Eastern Oregon as a range for their surplus cattle, sheep, and horses, organized a joint-stock company, called the Willamette Valley and Cascade Mountain Wagon-Road Company, to build a road across or through the Cascade Mountains. The capital stock was fixed at $30,000, much of which was soon subscribed, and the work of building the road was commenced. A county road already existed from Albany in the desired direction to Willey Creek, a point about 4 miles east of Sweet Home, or 36 miles east of Albany. However, in consideration of some improvements to be made, and more especially the keeping up of a bridge across Willey Creek, the county turned over the 2 miles next to the mountains to the road company, and the company established a toll-gate about 2 miles east of Sweet Home, or 34½ miles east of Albany, and at this toll-gate the road properly begins. The distances given in this report are approximate only, there being no means of ascertaining them other than from the statements of persons living on the line of the road or otherwise familiar with it. The company claims to have done some work by way of improving the road between the toll-gate and Albany, but I apprehend this work never amounted to much, and it is still kept up by the county of Linn. The stockholders in this company included nearly all the leading men of Linn County. Finding that the expenditure of considerable money and labor would be necessary to secure even a passable road across the mountains, the suggestion was made that a land grant should be obtained from Congress to assist in its construction.

When the company was first organized and the work of building the road was commenced, no idea of such a grant was entertained, and the company proceeded for a time upon the supposition that the road could be built from their own resources and without any aid from other and outside parties or from the Government. In the mean time their subscriptions of money and labor were exhausted, and in the year 1866 a land grant was

obtained. This enabled them to increase their capital stock, restored their credit, and they were enabled to construct a passable road over the mountains. This road, however, was destitute of bridges in many places where they were needed, and was only a tolerable road late in the season, when the streams were low and when the surplus snow had disappeared from the mountains.

In the construction of this portion of the road most of their additional subscriptions were exhausted, and most of the five years allowed them by the act of Congress making the grant had expired. It should be stated here, perhaps, that but little land under this grant has ever been sold, either by the original company or the present one, and that little is on the west side of the Cascade Mountains. I am told that no land whatever has been sold east of the mountains, except 200 acres at Camp Polk, and it is said that this 200 acres did not belong to the road company. In order, however, to secure the land grant, the company, having exhausted its means in making a road across the mountains, took advantage of the open character of the country and simply made a wagon track from Cache Creek, a point about 14 miles west of Camp Polk, to the eastern boundary of the State, and upon this they secured the grant. In all that distance, more than 350 miles, they did not build a single bridge, and occasionally only a little grading, just sufficient to admit of the passage of a lightly loaded wagon. In fact, they did not build a bridge from Canyon Creek, where it empties into the Santiam River, to the State line, with the exception of bridges over two small streams some 68 or 70 miles east of Albany. From Canyon Creek to the State line is over 400 miles. There are some three or four culverts made of poles which should perhaps be mentioned, but all the larger streams, creeks, gullies, rivers, and water channels from Canyon Creek eastward were left without bridges, except the few mentioned, for that entire distance.

In regard to grading it is safe to say that from Cache Creek, as above mentioned, to the Idaho line, the company did not do to exceed $500 worth in that entire distance of over 350 miles. An average of $5 per mile would cover the cost of locating the line and constructing, as far any constructing was done, the road, in its entire length, east of the Cascade Mountains. The country was then unsettled and almost entirely occupied by Indians, many of whom were hostile. A road having been constructed across the mountains, the object of the stockholders generally was accomplished, and it was difficult to raise money for any expenditure beyond the mountains. The location of this 350 miles east of the mountains was chiefly made and its acceptance secured in 1869 and 1870. In 1871 the limitation of time made by the act of Congress expired. In 1872 the present owners of the road purchased, at a large advance upon the original cost, all the stock of the original stockholders, and they are now and have since that time been in possession of the property. They seem to have made the purchase without investigating closely either the character of the lands, the condition of the road, or the terms upon which these lands were obtained. It is claimed by Mr. Wheeler above mentioned that about $75,000 were expended upon the entire line of the road by the original company. Others state the amount at much less.

Milton Hale, also above mentioned, states that from $40,000 to $60,000 were so expended. He thinks possibly $45,000. This amount, or whatever sum was actually expended, was almost entirely used in the construction of the road from or between the toll-gate, 2 miles east of Sweet Home, and Cache Creek, the point above mentioned, about 14 miles west of Camp Polk. I am told by the attorney for the present company, Mr. Fechheimer, of Portland, that the present owners of the road paid $160,000 for the stock of the original owners in 1872. For a majority of this stock they paid $400 per share, the par value being $100. Part of the original stock was paid up in services along the line of the road as guards, guides, hunters, laborers, teamsters, &c., by the stockholders.

The present company claim to have expended much more than the amount of the tolls collected in repairing and improving the road. The tolls taken in at the toll-gate above mentioned range, I am informed, from $1,800 to $3,000 per annum. They have built a bridge within the past three years across the Deschutes River. This is a toll bridge, but since its erection it has been in charge of a dissipated man, who could give no information as to the amount of travel or toll collected, and who has never made any settlement or accounted in any way for moneys collected to the road company. He was the former owner of the ferry at this point, and also of some land on the roadside of the river where the bridge is located. A controversy has been going on ever since its construction between the keeper of the bridge and the company. The repairs and improvements made by this company are almost entirely confined to that part of the road which passes through the mountains and west of the Deschutes River. No work has been done by the present owners since 1872 between Smith's Rock, the point where the road strikes Crooked River, and the eastern boundary of the State. No attention whatever has been paid to that part of the road. A little work has been done, but it is scarcely worth mentioning, between the Deschutes and Crooked Rivers.

CHARACTER OF THE COUNTRY THROUGH WHICH THE ROAD PASSES.

From Albany eastward for 32½ miles the road runs through the Willamette Valley. From thence to Cache Creek, a distance of about 60 miles, the road runs through and over the Cascade Mountains. Much of this section of the country is heavily timbered, principally with fir. The road follows up the Santiam River about 28 miles, thence up a long ridge and over a divide, thence down a small stream to Fish Lake. It is upon this part of the road that most of the work has been done (that is, between the toll-gate and Fish Lake), a distance of about 44 miles. The grading most of the way, however, has not been difficult. It has been done at a cost of about $2 to $3 per rod.

A bridge over Willey Creek, a small bridge at Lower Soda Springs, a bridge over Canyon Creek, and two small bridges over little mountain streams are all the bridges worth mentioning. There were formerly seven fords of the Santiam River, but these, by grading the road on the south side of the river, have been reduced to three. Bridges are needed over these badly. Also over Soda Fork, Elk Creek, Rocky Creek, near the last crossing of the Santiam over Snow Creek, and over a large number of small mountain streams without names.

From Fish Lake to Cache Creek, 16 miles, the road passes over a dividing ridge by following a long slope from the lake eastward; thence from the top of the divide by a gentle descent to Cache Creek. From this point to the eastern boundary of the State the country is made up of a succession of high table-lands, varied with ridges, peaks, and back-bones, between which are deep river beds, cañons, long ravines, and water channels and courses, many of which are dry during the greater part of the year.

This entire country is one of great altitude and dryness, and is generally covered with sage brush and bunch grass, with a sparse growth of juniper. There are occasionally valleys of rich arable land, covered with a luxuriant growth of wild meadow and other grasses. The only timber through which the road passes is a strip about 14 miles wide, between Cache Creek and Camp Polk; another, 10 or 12 miles wide, between the Upper Oshold and the North Fork of Crooked River, and still another of about the same extent between Buck Creek and Silver Creek. This timber is usually a species of yellow pine, without any undergrowth to speak of, and grows so sparsely that a wagon can usually be driven anywhere through it. Men on horseback travel in any and all directions, and cattle range over this entire country.

By the exercise of a little discretion a wagon can be driven almost anywhere also. Usually, or often, the sage brush is not too high to be driven over, or, if occasionally too high, by breaking the topmost branches the wagon may be driven over the remainder. By choosing a suitable place for descending into the valleys or in seasons of low water for fording the streams, a wagon may be driven in almost any direction, and, if more wagons follow in the same track, a road is soon tramped out. Such is the character of the country through which the line of this road passes for about 350 miles.

MODE OF CONSTRUCTION.

As before stated, from Albany to Sweet Home, and for about 4 miles beyond, a country road had already been made before this enterprise was commenced. It is claimed by the directors of the original company that they were authorized or permitted, by the county authorities, to "lay" their road and grant upon the county road. A toll-gate was erected about 2 miles east of Sweet Home, because the location was a favorable one to control all traveling over the mountains. Two miles east of the toll-gate the actual work of beginning the new road was commenced. This work consisted in grading a track sufficiently wide for a single wagon to pass, with occasional turnouts, where the ground was favorable. Where it passes through timber the trees are cut out, usually with only sufficient width for a single wagon track. With the exception of the bridges already mentioned, there are no bridges on the entire line. The result is that the road is only passable for a few months in the year. During the present season of 1880 the first wagons passed over the road on the 18th of July. Usually the road is closed for the winter between the 1st and 15th of November. Last year the road was closed about the 12th of November. It is claimed that the snow on the mountains kept the road closed until the 18th of July, but the melting of the snow kept up the streams and made them impassable as long as there was a supply of snow in the mountains. The consequence of this was that many people had to take a long and circuitous route by the way of The Dalles to reach their destination east of the mountains on the line of this road. The settlers in Harney Lake Valley and Silver Creek Valley informed me that Silvies River and Silver Creek were both impassable until the 1st of August for the same reason, and therefore they were obliged to take other and troublesome routes to reach their depots of supplies.

From Cache Creek to the eastern boundary of the State the process of construction was very simple. It consisted simply of a party of men, most of whom were on horseback going through the country with a wagon at the rate of 10 or 15 miles a day, blazing trees when passing through the open timber, doing a little grading in different spots, breaking down the sage brush where it was too high for a wagon to pass over, finding fordable places in the streams, and putting stakes in the ground which were supposed to be 1 mile apart. In order to avoid bridging streams and grading hillsides long detours were frequently made, which lengthen the line of the road very materially and increase the cost and labor of travel. For example, as may be seen by the map, in going from Cache Creek to Camp Polk a long detour is made to avoid bridging Half Ration Creek, which seems to be the only object in passing around the head of that stream. A short distance below the point marked Cache Creek, on the accompanying map, a new road, called a county road, has been laid out, which is traveled considerably, and which is said to be 7 miles nearer to the point where both roads strike Crooked River. This road crosses the Deschutes by a ferry, a short distance (a few miles) above the bridge of the Willamette Valley and Cascade Mountain Road. There are many other places where similar detours are made, apparently to avoid bridging or a small amount of grading. In rocky spots of ground the more troublesome of the loose stones were thrown aside. In this way a track was made, barely passable for an empty or a lightly loaded wagon from Cache Creek to Camp Harney, a distance of about 200 miles. At Camp Harney the parties locating the line of this road from that point to the State line under the direction of Milton Hale above mentioned, simply followed an old military road leading from Camp Harney to Winnemucca, which had been before, and is yet traveled considerably between those points, and, without doing any work on it to speak of, traveled over it until they reached the point near the mouth of Crane Creek, where this old road turns south in the direction of Juniper Lake. Here they left that road, turned off, or rather, as will be seen by the map, continued on in an easterly direction, through the sage brush, and over the table-lands lying between the Malheur and Owyhee Rivers, and having, as they claim, taken a wagon through to the mouth of the Malheur River, they returned to Albany. I am informed that no leveling instruments or scientific methods have ever been used in the construction of any part of the road. Usually the location of the line was determined by men on horseback, who went before the wagon from one prominent point to another.

The location appears to have been made with two objects in view: First, to get through as speedily as possible with the least amount of work; second, to secure as much good land as possible between the terminal points. Mr. Milton Hale, of Albany, who at first agreed to go with me, but subsequently declined, was the man who superintended the location of the line between Fort Harney and the State line. This portion of the line has never, I am told, been visited by any member or representative of the company which now owns the road, nor has any work been done on it since they purchased it in 1872.

PRESENT CONDITION OF THE ROAD.

As before stated, I left Albany on the 24th of September, in company with Mr. Jason Wheeler. We traveled in a two-horse hack, with camp equipage and a supply of provisions for use in places where no houses could be reached. Our load on starting was 600 pounds. We averaged about 25 miles a day and 3 miles an hour on going eastward; something more on our return. The road from Albany to the toll-gate, 2 miles east of Sweet Home, is a fair country road, and is kept up by Linn County. From that point to Cache Creek it is in fair condition for a mountain road, excepting the lack of bridges and the cutting of timber, before mentioned. There are places, too, where drainage is much needed. There is no drainage of any consequence, a few spots excepted, on the entire line of road. Along the Santiam River there are in the aggregate some 5 or 6 miles where the road passes through heavy timber, and where there are many mud-holes needing to be filled and drained out on the upper side of the road, in addition to the timber which should be cut on each side.

The fords of the Santiam and the other streams mentioned are troublesome, and in seasons of high water are dangerous. The descent on the east side of the Cascade Mountains is much less than on the western. But little grading has been done between the summit of the mountains and Cache Creek. From Cache Creek to Camp Polk still less. From Camp Polk to Crooked River the road runs through a sage-brush country, with occasional spots of rocky ground, and here the worst of the loose rocks have simply been thrown aside. In two or three places a little grading has been done, not exceeding $100 worth in 30 miles. The line of the road originally followed up the valleys of Crooked River and Ochoco Creek for about twenty-five miles, but since that location was made the country has been settled, the valleys have been fenced up, and the road—made by the citizens and kept up by the county—now follows along the base of the hills gener-

ally, and the citizens of Prineville and the vicinity have built bridges over Crooked River and Ochoco Creek near the town. The road follows up the Ochoco, but after it leaves the main valley and turns to the southeast it is much of the way, to the north fork of Crooked River, very bad indeed.

There are twenty-five small bridges or culverts needed within about 4 miles on the Upper Ochoco. A little grading has been done there and on other streams followed and crossed before the north fork is reached, but in many places it is still almost impassable for loaded wagons; and it is said that the citizens have done, as a matter of necessity, the little work which has been done on that part of the road. There was not done by the original company to exceed $50 worth of work on this 30 miles. Going up the hill from the crossing of the north fork of Crooked River, there has been done probably $100 worth of grading, but this part of the road is still in very bad condition. The slopes are so steep from the upper side of the road to the lower that it is almost impossible to keep a wagon from turning over or sliding down into the gulch below. Much of the little grading which has been done here has also been done by the citizens, in order to make the road passable even for light loads.

After the top of the hill is reached there is no more grading or work of any kind to be noticed, with the exception of the removal of some loose stones in strong places, for about 50 miles. I shall mention that because the crossing of Beaver Creek was dangerous and there being no bridge there, the settlers were obliged to change the line of the road for a distance of about 15 miles, and a portion of this detour is very rough and rocky, though these citizens have done some work on it which makes it barely passable. At Buck Creek there is also a piece of grading, about 60 rods, costing possibly $100; thence to Silver Creek, much of the road rocky, rough, in occasional places, steep—almost an outrage that people should be compelled to go over such a road even with empty wagons.

Between Buck Creek and Silver Creek the road passes through a skirt of timber for some 10 or 12 miles. Within a few miles, in this timber, I counted twenty-nine trees which had fallen into the road or across it since it was first located, and which still lie on the ground where they fell. The travelers or wagons are compelled to make their way round them or remove them themselves. Silver Creek and Silvies River are both streams having narrow channels and steep banks, and in seasons of high water the fords are impassable. The fords are bad in low water on account of the steep banks.

From Silver Creek to Camp Curry to Camp Harney the road is fairly good in the valleys, were it not for the numberless gullies that need bridging or filling. Long detours are often made to avoid places where bridging or grading is needed. The citizens have built a bridge across Silvies River, about a mile above the ford, by which this line of road crosses that stream. A bridge is much needed over Silver Creek and over Harney Creek, or the stream which runs down by Fort Harney. In going from the latter place to Crane Creek the settlers have been obliged to go up Cow Creek some three-fourths of a mile above the old fort and build a bridge. They have also been obliged to bridge Crane Creek. Portions of the road between Camp Harney and Crane Creek are also very rocky. When I reached Crane Creek I stopped for a night, going and returning with Mr. J. F. Burns, a stock-raiser, who has about 6,000 head of cattle ranging between the headwaters of Crane Creek and the Owyhee River, in the identical section of country through which this road is supposed to run. He has been riding over it constantly for the past six years and never saw, discovered, or suspected the existence of a road between the South Fork of the Malheur and the Owyhee River, or the Cottonwood Branch of the Malheur. He only heard, a few months ago for the first time, that such a road had ever been projected. Hiring horses from him, in order that our own team might rest for a day, and engaging him to accompany us, we rode down Crane Creek to the point where the road turns south to Winnemucca, and here all trace of our line of road disappeared. No appearance of a road was to be perceived; but after making a careful examination on foot of the places where a wagon might cross we discovered some evidences such as the removal of loose stones, &c., which led us to believe, comparing them with the map and following the general direction indicated on it, that we had found the place where the locating party, with their wagon, had crossed the South Fork of the Malheur River. Continuing our search, and following through the sage brush the direction they were most likely to take and the most available opening, through a long hollow or ravine, which led to the high table-lands to the eastward, we came upon a little grading about a mile east of the stream last mentioned, which was the last trace we could or did discover of the line of the road we were in search of. This grading was not more than two days' work for one man. Mr. Burns had never before seen even this.

As it was impossible to follow any remaining traces which might have been left by this locating party ten or eleven years ago in the bunch grass and sage brush, we reluctantly turned back, and retraced our steps by the way of Fort Harney and Prineville

to Albany. It is, perhaps, proper to mention in this place that I did not find any one at work on the road going out, repairing or otherwise improving it along its entire length or as far as I traveled it. On my return I found some three or four men at work on the Santiam River. I should also mention that the mail is carried from Eugene City to Camp Polk by another road which has been constructed up the McKenzie River, and much of the travel from the Willamette Valley to Eastern Oregon goes that way. The mail has never been carried by the Willamette Valley and Cascade Mountain wagon-road since its first construction over the mountains.

CONCLUSIONS.

As before stated, almost all the labor and money expended upon this road, either by the original builders or by the present company, have been devoted to the construction and improvement of that part of it which lies between the toll-gate, 2 miles east of Sweet Home on the western side of the mountains, and Cache Creek on the eastern, a distance of about 60 miles. Even here, as a matter of law and fact, they cannot be said to have complied with the act of Congress making the grant of land. The want of bridges across the streams already referred to is a serious inconvenience to those who are obliged to travel this road. Aside from this, the road is a fair one for a mountainous region, and in the dry season of the year teams of four horses can draw from 2,500 to 3,000 pounds by careful driving in the day-time, when obstacles, short turns, &c., may be guarded against. There are grades, however, which should be reduced, places where the road should be widened, more turnouts made, and timber cut away on both sides. There are several miles of the road near Big Lake, especially where there is much dead timber standing in immediate proximity to the road, to the imminent danger of passing travelers. It would require an expenditure of probably $20,000, including bridges, to put this part of the road in good condition. Upon this division of the road I am not able to see where or how more than $40,000 were expended by the company which originally built the road and received the grant of land.

Upon the entire line of road, from Albany to the State line, I cannot see where $50,000 were expended, probably not more than $45,000. The part of the road lying between Albany and the toll-gate, about 34 miles, having been built and kept up by the county of Linn, cannot properly be claimed by the company, nor the lands for that division honestly earned. From Cache Creek eastward to the State line it is very manifest that the terms of the grant have not been complied with; no road has been made worthy of the name, and therefore neither the original company nor the present owners are entitled to hold any land whatever for that portion of the line.

A liberal construction of the act of Congress might give them the lands adjoining the road between Albany and Cache Creek, provided the improvements herein suggested were made, but neither in law nor in equity can they be considered to have earned any land whatever east of the last-named point. Possibly, in view of all the facts and circumstances herein detailed or connected therewith, they might be allowed the lands they claim between Albany and Camp Polk, or even, by a stretch of liberality, between Albany and the Deschutes River, but certainly I can see no possible claim that can be just to anything beyond or east of that river. It is one of the chief causes of complaint amongst the settlers in all the region east of the mountains that they are unable to purchase the lands of the road company, or to make any contracts with reference thereto in all that wide extent of territory lying between the Cascade Mountains and the Idaho line.

To this the company replies, first, that they have a right to do as they please with their own property; second, that the reason why they have not sold any land hitherto was because they had bonded their entire property for sale until the 1st of January next, when, if it is not sold, they will thereafter be prepared to sell in any desired quantity and at a reasonable price. All this might be plausible enough if the road had been built according to law, but when it is considered that there is no such road provided for the convenience of the settlers, and the land is nevertheless withdrawn from the market, settlers having still to make roads for themselves, &c., it will be seen very readily that they have some reason to complain. These complaints would be more numerous and pressing but for the fact that this region is essentially a stock country, and the teaming required is only or chiefly the supplies of provisions obtained once or twice a year.

Most of the citizens east of the mountains complain bitterly of the road, its construction, and management. West of the mountains, in Albany and its vicinity, the leading citizens were stockholders in the original company. These men secured their primary object, which was a road across the mountains, and subsequently sold their stock at a large advance upon its original cost. They are therefore naturally unwilling that the matter should be disturbed. The present company claim to be innocent purchasers;

that the contract for the land was finally closed by the Government in 1874, when the act of Congress was passed relating to patents therefor, and that those who now complain are without a remedy. Believing, however, as I do, after a careful examination of the subject, that the act of Congress making the grant has not been complied with; that the road has not been constructed as it should have been, at least from Cache Creek to the Idaho line, a distance of about 350 miles, I deem it my duty to recommend that such legal measures be taken as will determine the rights of all concerned, and when that is done I believe that the lands now held by the company east of Cache Creek, or at least of Camp Polk, will be restored, as I believe they should be, to the public domain. Such a course might result in hardship to the present company as innocent purchasers, but justice to the Government, to the settlers along the line of the road, and to future beneficiaries of a similar character, demands that such a fraud as that which has been perpetrated in this case should be severely punished, and with as much promptness as is possible under the circumstances. Attention is invited to the accompanying affidavits of old and respectable citizens on or near the line of the road east of the mountains. More of the same character were not deemed necessary.

I have the honor to be, very respectfully,

WM. F. PROSSER,
Special Agent General Land Office.

General JAMES A. WILLIAMSON,
Commissioner of the General Land Office, Washington, D. C.

(Indorsed:) The duplicate of this report, sent to the Secretary of the Interior with letter of December 4, 1880. SMITH.

P 1.

STATE OF OREGON, *County of Wasco, ss:*

I, L. Vanderpool, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon, post-office, Prineville; by occupation a practicing physician, and of the age of forty-nine years; that I have resided in Wasco County, and close along the line of survey of what is known as Willamette Valley and Cascade Mountain Military wagon-road, ever since April, 1869, and during said time I have been intimately acquainted, owing to my business, with line of said survey for a distance of 200 miles, and I know that the western end of said road for 60 miles is a tolerable country road for a new country; this said section of the road was claimed to have been finished by said road company, and toll collected thereon in 1866 or 1867, and to my knowledge for ten years afterwards said road was hardly passable with a light middle track two-horse wagon, and drawn by two good 1,400-pound horses, with a load of 1,000 pounds, without adding extra team or unladening a part of said load; many places along said road the hills were so steep, I think they would be from 30 to 45 degrees up, and so filled with stumps of trees and rocks, many of the stumps measuring from 8 inches to 2 feet high and from 4 to 6 inches in diameter. Many of the rocks that lay in the track where the wagon wheels had to run would weigh 200 pounds, and of a rounded shape, which made it impossible for the most expert teamster, where he was used to bad roads all the time, to drive at any place along line of said section of said road for a distance of 300 yards without coming in contact with from 50 to 300 yards of said roads filled with stumps and bowlders as aforesaid, and at the same time in many places the water being allowed to run along said road without any culverts, so as to cause it to become worked up with mud among the roots of the stumps to such a depth that the traveler is compelled to fill up with wood, bark, and rocks to raise the track where the wheel runs to a considerable height, until the axle of the wagon will pass over the stump before he can pass up.

Until about three years ago the road passed up the Santiam River, and until lately it crossed the river seven times. The Santiam is a stream of from 75 to 125 feet wide at the crossings, and a swift mountain stream, the bottom covered with large bowlders from the size of a man's head to that of a whisky barrel, and the latter size so numerous as to resist the efforts of the strength of the stoutest teams. Sometimes one would drive across one of these crossings all right, but if you got through without breaking the wagon or one of the team's legs you would congratulate yourself as being in luck. At most of these crossings was only dug down a very little wider than the wagon, and so steep that the driver would not want to stay on the wagon to pull up, but could not walk beside the wagon by reason of the narrow grades. These crossings remained in this condition for over eight years, and some of them are so yet.

From Fish Lake to the eastern boundary of the State, a distance of —— miles, on none of the streams is there a bridge, though the line of survey crosses quite a number that are frequently impassable during each year by reason of high water, and are at all times difficult and dangerous to cross with stock, though it is my understanding that the charter granted to the said road company requires that all the streams shall be bridged in a good and substantial manner. This is not done, yet toll is collected for traveling the same.

In many places the timber is not cleared out wide enough for the wagon and driver to travel side by side. Once in traveling the road I came very nigh losing my life by being caught between my wagon and some trees standing beside the road, which ought to have been cut. The hill was so steep that I had to walk and drive. I had a team of four good horses and a load of 1,600 pounds on a small wagon, and it was all I could do to get along. It was a good natural place to build a road, but none was made. This was in the Cascade Mountains on the western section of the road. East of the Deschutes River all the work I know of being done consisted of throwing out some rocks on the line of survey for a distance of 10 miles, and again on Veasey Creek, some 25 miles further along, a tree was cut down and some dirt thrown against it. At the crossing of Crooked River there was done work to the amount of $1. The line of survey crosses numberless hills and streams that should be graded, but from personal inspection I know they never were worked in any manner by the road company, or by any person or persons in their employ. The country along the said line of survey has been settled by settlers, and they have, for their own convenience and wants, built and now travel roads from one point to another, and in many places these roads run along or near to the line of the road company's survey, and these are the only roads that ever were built along the said line, and none of the work necessary to open them was ever contributed or done by the road company, or by any person or persons in their employ.

The actual cost of the road, as built by the road company for the first 10 miles east of Cache Creek, did not exceed $10 per mile. East of that from 3 to 4, not over $4 per mile, and most of this went for expenses of surveying; in fact, this being all the work that was ever done. Often when the streams were up I have been unable to visit patients that live along the line of survey of the road, because the streams were not bridged, and so was impassable.

The country through which this road survey passes is covered with sage brush and rocks; this sage is a stubby bush, growing from 1 to 6 feet high, and is from 1 to 6 inches in diameter; but along the streams and wet places none of this brush grows, and the road company in surveying and laying out their road wound around the edge of these wet places where there was no brushes, but when they were compelled to leave these open places; they never cut any brush, and from the nature of and growth of these brush a wagon cannot be driven over them. In numberless places the line of survey crosses wet and marshy places, that during certain seasons of the year are impassable, and as none of these places was ever drained or bridged, the travel have been compelled to leave the line of survey sometimes as far as a quarter of a mile to get around such places.

DR. L. VANDERPOOL.

Subscribed and sworn to before me this 23d day of October, 1880.
[SEAL.] GEO. W. BARNES,
Notary Public.

P 2.

STATE OF OREGON, *County of Wasco, ss:*

I, E. G. Conant, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; post-office, Prineville; by occupation, a stock-raiser, and of the age, forty-eight years; and that I have resided in Wasco County and near to the line of survey of what is known as Willamette Valley and Cascade Mountain road ever since November, 1869; that during said time I have frequently examined the said line of survey, and from a personal knowledge of said line of survey and country, I know that no road has ever been built or attempted to be built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ, east of the Deschutes River; that the line of survey of said road running through what is known as the Ochoco Valley has been fenced ever since 1870, and at no time was it possible for travelers with any kind of wagons to travel the said line of supposed road; and, further, I know that at no time since my first acquaintance with the said line of survey has any of the streams been bridged, though the said line of survey crosses several that are frequently, during each year, impassable by reason of high water; and, further, that no

grading has ever been done by the said company on any hills that the line crosses; that the country through which the said line passes has been settled up, and that the settlers have built and now travel a road from point to point for their own convenience, and that in some places this road so built follows the line of survey of the said company, and that this road is the only one that now is or ever was along said line of survey, and that no part of it was ever built by work done by the road company, or by persons in their employ.

E. G. CONANT.

Subscribed and sworn to before me this 21st day of October, 1880.
[SEAL.] GEO. W. BARNES,
Notary Public.

P 3.

STATE OF OREGON, *County of Wasco, ss:*

I, Joseph E. Dunstan, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; that I have been acquainted with the road known as the Willamette Valley and Cascade Mountain Road for the last nine years; my first acquaintance was as chain-bearer on the section of road from Camp Harney east; there was ten of us in the crowd; James Warner was the surveyor; we started at in Harney and went east to the farther edge of Harney Valley, and then went east to Crain Creek; the road we surveyed has never been traveled, and, with the exception of a small portion, can't be traveled; all the work that ever was done was done by us on a place we got into and couldn't get out; the travel now goes on an old Government road; this was received by the governor's agent as the company's road; the survey we made was very careless; we sometimes staked it and sometimes did not. I have traveled the line of survey from Albany to Camp Harney twice or three times, and I know from personal inspection that no work has been done from the Des Chutes River to Camp Harney by the road company since I first worked as mentioned above. I know that when the road was received that the road would not permit all kinds of wagons to pass over it; perhaps a light wagon with no load could have by some help on bad places went over. I further know that no bridges have ever been made by the company on any of the streams east of the Deschutes River; the line of survey crosses several streams that are frequently impassable during each year by reason of high water.

JOSEPH E. DUNDAR.

Subscribed and sworn to before me this 14th day of October, 1880; and I further certify that the above-named deponent is a person to whose affidavit full faith and credit should be given.
[SEAL.] GEO. W. BARNES,
Notary Public.

P 4.

STATE OF OREGON, *County of Wasco, ss:*

I, William Smith, being first duly sworn, do depose and say: I have been a resident of Wasco County, Oregon, for twelve years last past; that during that time I have lived in the vicinity and near to the line of survey, of what is known as the "Willamette Valley and Cascade Mountain Road;" that I have been acquainted by personal inspection with the said road from Albany, Linn County, Oregon, to James Miller's place, in Ochoco, in Wasco County, a distance sf something near 150 miles, for the last fifteen years.

My first acquaintance was as a work hand. I worked on the road in the Cascade Mountains. We just made a road-bed through the mountains; we never cut any trees outside of the road-bed; the road-bed averaged, as we built it, from 5 to 7 feet. As to turnouts, we didn't make no great sight of them. When we came to a good convenient place, easy to build, we built one; when we didn't, we let them go. I consider the road where I worked a very good passway, but all kinds of wagons could not travel it, though I once drove a team of oxen over it. All the work done east of the Deschutes River that I know of or have heard of consists of the work we did by surveying the road from Deschutes to Bridge Creek; we measured the road with a rope, and did not stake it; we had no surveyor and consequently no field-notes were taken of the sur-

vey. I know that no road was ever built east of the Deschutes; I know the road as surveyed along the Crooked River and Ochoco Creeks, a distance of 24 miles, has been fenced up for the last ten years; during that time has not been traveled or in a condition to be traveled that distance.

WILLIAM SMITH.

Subscribed and sworn to before me this 5th day of October, 1880; and I further certify that I am personally acquainted with the above-named deponent, and that he is a person to whose affidavit full faith and credit should be given.

[SEAL.] GEO. W. BARNES,
Notary Public.

P 5.

STATE OF OREGON, *County of Wasco, ss:*

I, T. B. James, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; post-office address, Prineville; occupation, a farmer and stock-raiser; age, forty-three; that I have lived in the neighborhood and near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain road" since 1869; that from a frequent personal examination of said line of supposed road I know that no road was ever built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ east of the Deschutes River, in Wasco County; that on the line of said survey west of the said Deschutes River, the said company has done some work and built a road through the Cascade Mountain, but that at no time for ten years after the said road was claimed to have been finished and received by the governor could all kind of teams or wagons travel said road with a load; that the said road was full of stumps and rocks so high that the axles of wagons would catch on them, and travelers would have to build up on each side with logs to enable the wagons to pass over such obstruction; that the road-bed built through the said mountains was so narrow that wagons could barely travel it, and that outside this narrow bed no trees were ever cut or cleared out, and frequently passing wagons would strike trees standing beside the road; that none of the streams on said road were ever bridged by the said company, with the single exception of Canyon Creek, in the Cascade Mountains, though the said line crosses several streams that are frequently impassable during each year by reason of high water, and at all times unhandy to cross with stock; that no work ever was done through the Ochow Valley on the said road, and that in many places the said line has been fenced up and utterly impassable for the last ten years.

T. B. JAMES.

Subscribed and sworn to before me this 25th day of October, 1880.

[SEAL.] GEO. W. BARNES,
Notary Public.

P 6.

STATE OF OREGON, *County of Wasco, ss:*

I, Alexander Hodges, being first duly sworn, do depose and say: I am a resident of Primeville, Wasco County, Oregon; occupation a farmer and stock raiser; age fifty-nine years; that I have lived in the neighborhood and near to the line of survey of what is known as the Willamette Valley and Cascade Mountain Wagon Road since April, 1869; that from a frequent personal examination of said line of survey and a thorough knowledge of the surrounding country, I know that no road was ever built or even attempted to be built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ east of the Deschutes River to Harney Lake, that being as far as I have traveled the same.

West of the said Deschutes River the said company have worked some and built a road; but that since said road was claimed to have been completed and received by the governor, and for ten years afterwards, the said road could not at no time be traveled by heavy wagons with a load; that for that said time the road was so filled up with rocks and stumps that passing wagons would strike them, and travelers would have to build up on each side of the obstructions so as to enable the wagons to pass over; that no trees were ever cut outside of the road through the said Cascade Mountains, and that said road was so narrow that wagons could barely travel over it, and would very often strike trees standing beside the road bed; that none of the streams along the said line

has ever been bridged by said company or by any person or persons in their employ, with the single exception of Canyon Creek in the Cascade Mountains, though said line crosses quite a number of streams that are frequently, during each year, impassable by reason of high water, and are at all times unhandy and unsafe to cross with stock.

East of the Deschutes River the said company has never done any work beyond surveying and staking the said line; that no grade was ever built on any of the hills, and that in many places for miles the said line of survey has been fenced up for the last ten years, and during that time has not and could not have been traveled; that the country along the said line has been settled up and the settlers for their own convenience and necessities have been compelled to build roads; that in many places the roads so built have followed along or near to the line of the said company's survey, and that these roads are the only ones ever built thereon, and that none of the work done in building the same was ever done by the said road company, or by any person or persons in their employ; that the line of survey of said road from the Deschutes River east has never been opened and no road has ever been built thereon, and that the same could now or ever could have been traveled.

A. HODGES.

Subscribed and sworn before me, this 24th day of October, 1880.

[SEAL.] GEORGE W. BARNES.
Notary Public.

P 7.

STATE OF OREGON, *County of Wasco, ss:*

I, P. P. Davis, being first duly sworn, do depose and say, that I have been a resident of Wasco County, Oregon. for nine years last past; that during that time I have resided in the vicinity and near to the line of survey of what is known as the "Willamette and Cascade Mountain road," and that from a personal knowledge of the country and a frequent personal examination of the line of survey of said supposed road, I know that no road whatever has ever been built or constructed, or even attempted to be built or constructed. by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their behalf, from the Deschutes River east to Lost Creek, a distance of 70 miles, this being all of said line of survey that I am personally acquainted with; and further, I know that none of the streams along said line of survey east of the Deschutes River have ever been bridged by said company, or by any person or persons in their behalf, or at all, though said line crosses several streams that are frequently impassable during each year by reason of high waters; and, further, I know that none of the hills along said line have ever been graded or worked at all, and that they at all times are impassable for teams with heavy loads, and that the only work ever done on said line has been done by travelers who attempted to travel said line, and were compelled to work to get along.

P. P. DAVIS.

Subscribed and sworn to before me this 2d day of October, 1880; and I further certify that I am personally acquainted with the above-named affiant, and that he is over the age of twenty-one, and a person to whose affidavit full faith and credit should be given.

[SEAL.] GEO. W. BARNES,
Notary Public.

P 8.

STATE OF OREGON, *County of Wasco, ss:*

I, J. H. Snodderly, being first duly sworn according to law, do depose and say: I have been a resident of Wasco County, Oregon, for eleven years last past; that during that time I have resided near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain Road;" that from a personal knowledge of the country and a frequent personal examination of the line of survey of said supposed road, I know that no road whatever has ever been built or constructed or attempted to be built or constructed by the Willamette Valley and Cascade Mountain Road Company, or their successors, or by any person or persons in their behalf from Carmichel's ranch on Crooked River, to Lost Creek, a distance of some 60 miles, this being all of said line of survey that I am personally acquainted with; and further, I know that none of the streams along said

line of survey have ever been bridged by said company, or by any person or persons in their behalf, or at the east of the Deschutes River, though said line crosses several streams that are frequently impassable during each year; and further that from the said Carmichel's ranch to James Miller's, a distance of 45 miles, the said line of survey has been fenced up for the last ten years, and has not been traveled at all for that period.

J. H. SNODDERLY.

Subscribed and sworn to before me this 2d day of October, A. D. 1880, and I hereby certify that I am personally acquainted with the above-named affiant, and know him to be a man to whose affidavit full faith and credit should be given.

[SEAL.] GEO. W. BARNES,
Notary Public.

P 9.

STATE OF OREGON, *County of Wasco, ss:*

I, A. B. Webdell, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; that I have lived in the vicinity and near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain road" for the last eleven years; that during that time I have been acquainted by frequent personal inspection with the said road from Albany, Linn County, to the Divide at the head of Buck Creek, in Grant County, a distance of about 225 miles, and I know that no road has ever been built by the Willamette Valley and Cascade Mountain Road Company from Carmichael's on Crooked River east, or even pretended to be built; that the only work ever done by the said company, or by any person or persons in their employ, east of Carmichael's was done on Johnny Toms Creek, which consisted of cutting down a tree and scraping a few rock against on a steep point at that place; this all the work I ever saw done, and I have traveled the said line of survey frequently every year since 1869; I further know that since the said road was received by the governor the said road company has never done any work east of the said Carmichael's, but that since that time the country through which the line of survey passes has been settled up by settlers, and that these settlers, for their own convenience, have been compelled to build a road to enable them to go from one settlement to another for supplies, and so forth; that this road, so built, has in some places followed the line of survey of the company's road, but in many and most of places does not, and that this is all the road that ever has been built, by any person or persons, and that the Willamette Valley and Cascade Mountain Road Company never aided or built this road in particular; and further, I was once informed by some soldiers who were conveying Government supplies that they attempted to travel this Willamette Valley and Cascade Mountain Company's Road after it had been received accepted by the governor as completed, that they had to dig trenches along the side of the hills for the upper wheels of their wagons to run into to enable them to get along at all.

A. B. WEBDELL.

Subscribed and sworn to before me, this 6th day of October, 1880.

GEO. W. BARNES,
Notary Public.

Q.

[Inclosures.]

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 4, 1880.

SIR: By letter dated April 27 last I had the honor to report to you the status of the grant by act of Congress, approved July 5, 1866 (14 Stat., 89), to the State of Oregon of lands to aid in the construction of a military road from Albany to the eastern boundary of the State, and I submitted the question whether or not, in view of stated allegations of want of good faith and failure to comply with the terms of the grant, an investigation was desirable before taking action looking to the certification and patenting of a large quantity of land embraced in pending lists of selections duly presented by the Willamette Valley and Cascade Mountain Military Wagon-Road Company, now the beneficiary under the grant.

By reference to the report referred to it will be seen that there is on file in this office

the full and complete written evidence that the laws had been fully complied with, upon which, in the absence of any allegations to the contrary, the lands claimed would have been certified and patented as a matter of course.

I have received no written reply to my communication to you above referred to, but after consultation and full consideration I deemed it my duty to order an investigation.

Accordingly, by letter of August 16, 1880, to Mr. W. F. Prosser, special agent, then on duty in Washington Territory, I directed him to make an examination of the road in the field and a full investigation of the whole matter and report the result. A copy of my instructions to him is herewith.

Under date of the 9th ultimo the special agent transmitted his report, the duplicate of which is herewith submitted, together with the accompanying depositions.

It will not be necessary to recapitulate in this letter the history, pretended construction, and present condition of the road, as stated in the report and depositions. It would seem that the so-called road for much the greater portion of its line of route has been from the beginning the merest pretense; without graduations or bridges and practically unfit for use, except under the most favorable circumstances and in certain localities; that there was no actual "construction" of a road, but merely the marking out of a trail, the cutting of a little timber, and the removal of a few loose stones.

The act of July 5, 1866, making the grant, in section 3 provided: "That said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon-road," &c.; and section 4 provided: "And if said road is not completed within five years no further sales shall be made, and the land remaining unsold shall revert to the United States."

It is true that the entire line of road was accepted by the State, and by the State authorities formally certified to the Department as fully completed in accordance with law, and that the proofs were accepted by the Department and the lands withdrawn for the benefit of the grant; also that there have been already patented to the State, for the benefit of the grant, more than 100,000 acres of land, all based upon said proofs and in the absence of any evidence of a want of good faith. But in view of the report herewith presented, I do not see how it could be maintained that the Government is bound in the face of apparent fraud by its acceptance of the stated proofs; at any rate, so far as the lands remaining unpatented are concerned.

I am fully convinced that the pending lists of selections, to the amount of more than 446,000 acres, should not be certified or patented without further legislation. In my opinion the attention of Congress should be called to the matter, with a view to the forfeiture of the grant or the enforcement of a full compliance with its terms.

I submit the question for your consideration, and for such action as you may deem proper. In the mean time the lists mentioned will remain suspended.

The papers submitted are as follows:

A—Copy of instructions to W. F. Prosser.
B—Report of Special Agent Prosser.
C—Copy of act of Congress making the grant.
D—Copy of act of Oregon legislature conferring the grant.
E—Affidavit of L. Vanterpool.
F—Affidavit of William Smith.
G—Affidavit of Joseph E. Dundan.
H—Affidavit of P. P. Davis.
K—Affidavit of P. H. Snodderly.
L—Affidavit of A. B. Webdell.
M—Affidavit of A. Hodges.
N—Affidavit of T. B. James.
O—Affidavit of E. G. Conant.
P—Map of Oregon showing the line of the road.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

R.

Copies of affidavits attached to and made part of the report of the commissioners appointed by the legislative assembly of the State of Oregon, at the thirteenth session thereof, to investigate the land grant of certain wagon-road companies in said State.

R 1.

STATE OF OREGON,
County of Crook, ss:

I, James Slater, being first duly sworn, do depose and say: I am sixty years, and by occupation stock raiser; that I first became acquainted with the Willamette Valley and Cascade Mountain Road Company's road in 1868, and have been well acquainted with that part that passes through the Ochoco Valley ever since; that I have crossed the Cascade Mountains over said route quite a number of times; that from Albany, in Linn County, to Gilland's, at the upper end of Sweet Home Valley, a distance of about thirty miles, the company laid their road over a county road that was then and ever since has been worked by the tax-payers of the vicinity, and that the company never done a dollar's worth of work on that section except survey the same; that from Gilland's east, through the Cascade Mountains to Cache Creek, the company spent some money in building a narrow grade, which was barely passable for lightly loaded wagons in charge of a careful driver, but the grade was narrow and dangerous, with but very few places where wagons could pass. The road crossed the Santiam River nine or eleven times, I am not certain which, which crossings were dangerous and frequently impassable, none of which were ever bridged. East of Cache Creek I do not believe the company's work exceeded more than $200; in fact they expended but little beyond the expense of the survey. The road followed the old Indian trails that run from one valley to another, and where these left one valley to go to another they passed over steep hills and bluffs, and as the company never graded any of these, they were almost impassable for anything except an Indian pony.

East of Prineville, the only trace of a road I ever was able to find except these Indian trails and an occasional stake was about thirty yards of grading on the head of Buck Creek. This was a small trench about thirty yards long, large enough to catch the upper wheel of a wagon.

This country has been settled, and the settlers, to enable them to pass from one section or settlement to another, were compelled to build roads, and these roads frequently ran near the line of this company's road, but the settlers were never able at any time to use this company's road, for the reason the same was and ever since has been impassable for all kinds of vehicles.

JAMES SLATER.

Subscribed and sworn to before me this 27th day of October, 1885.

GEO. W. BARNES,
Notary Public.

R 2.

STATE OF OREGON,
County of Crook, ss:

I, I. N. Bostwick, being first duly sworn, do depose and say: I am fifty-one years of age; that I have resided in the immediate vicinity of the line of the Willamette Valley and Cascade Mountain Road Company's road since the fall of 1868; that I am personally and well acquainted with said road and every part, and the work done by said company from Albany, Linn County, to Beaver Creek in this county, a distance of 180 miles; that during my residence in this county I have been engaged in stock-raising, and that my business has called me over said line of road frequently at all seasons of the year, during all the time since 1868; that from Albany to Gilland's, at the upper end of Sweet Home Valley, in Linn County, a distance of about thirty miles, the company laid their road over a county road, doing no work whatever beyond surveying the same, and that that part of the said road has been kept up by county work ever since, the settlers along said section working out their road-tax thereon. That from Gilland's to Cache Creek on the east side of the Cascade Mountains, a distance of 60 miles, the company have done considerable work and have expended considerable money, and have built a narrow grade over which wagons not too heavily loaded can pass, with careful driving, the grade being from 4½ feet to 6 feet wide, measuring from the bank to the other side of the excavated soil, the road winding through the timber which stands up to the very edge of the grade. The road crosses the Santiam River eleven times, none of which crossings were ever bridged, though the same were frequently dangerous from high water,

and at all times filled with large bowlders and stones. From Cache Creek east to Beaver Creek, a distance of 120 miles, the company done but little, if any work, not to exceed in outlay $200, and this was between Cache Creek and Prineville. From Prineville east the company hardly made a trace of a road. In fact, about the only expense the company were to east of the Cascade Mountains was the survey of the road. They followed old Indian trails up the valleys and over the mountains and table lands, and these trails and the surveyor's stakes were the only evidence of a road I was ever able to find, except a small grade near North Crooked River, which was a small trench spaded along the upper side of a hill about a spade blade deep, and 5 or 6 inches wide, and 200 yards long. The line of said road, as marked by the stakes, could not be traveled by even horseback riders, as the same frequently crossed steep bluffs and water-courses, the banks of which were so steep and abrupt as to be impassable.

I further depose and say that all odd sections within 6 miles of the line of survey of this road is now, and has been ever since I have been in this country, withheld from public settlement, and claimed by this company; that the company have at all times claimed the right to collect rent from the settlers on all of these odd sections; that I have heard that the company is only entitled to three sections to the each mile of road, but I know they claim six, and are collecting rent from the same.

I. N. BOSTWICK.

Subscribed and sworn to before me this 27th day of October, 1885.

[L. S.] GEO. W. BARNES,
Notary Public.

R 3.

STATE OF OREGON,
County of Crook, ss:

I, L. J. Hedgpeth, being first duly sworn, do depose and say: I am sixty-one years of age; I have been well acquainted with the hereinafter-described section of the survey of the Willamette Valley and Cascade Mountain Road Company's road for twelve years; that I have frequently been over and along the survey of said road from Albany, in Linn County Oregon, and as far east as Silver Creek, in Grant County; that during said twelve years I have resided in what is now known as Crook County, and am well acquainted with the line of survey of said road. from frequent personal inspection, from Prineville east to the said Silver Creek, and that from said knowledge and inspection I know that there has never been, at any time during said twelve years, a wagon-road of any description over said survey between said last-named points, and further I know that one could not have rode horseback over all parts of said survey, and that it would have been utterly impossible to have taken a wagon over all of said line; that the only work I have ever been able to find on said line at the time I first became acquainted with said line was a small grade about a foot deep on the upper side for about 200 yards in length along a hillside, near North Crooked River, and also a similar grade about thirty steps in length at the head of Buck Creek: that said line of survey crosses Ochoco Creek six times, Horse Heaven Creek five times; follows down the bed of Lost Creek for about 300 yards, crosses Sheep Rock Creek once, North Crooked River once, Beaver Creek once, Twelve-Mile Creek once, Buck Creek once, and Silver Creek once; that these streams are frequently impassable by reason of high waters, and some are at all times almost impassable, being swampy and mirey, and that none of them were ever bridged, or even their banks dug down so that a wagon could cross; but that travelers, either on horseback or otherwise, would have to follow up or down the creeks until a ford was found to effect a crossing; that in laying out the said road the company followed old Indian trails from one point to another, and that these trails were the only evidences of a road I have ever been able to find, except the grading spoken of above; that the distance from Prineville to Silver Creek is about 100 miles; that between the said points the line of said road crosses several mountains and high table lands, and that the value of all work done by the company on said line does not exceed $25.

I further depose and say that all odd sections of lands within 6 miles of said line are withheld from public settlement and claimed by the company, and have been so withheld ever since I have been in this section of country, and that the company claims the right to lease all of said lands.

L. J. HEDGPETH.

Subscribed and sworn to before me this 27th day of October, 1885.

[L. S.] GEO. W. BARNES,
Notary Public.

R 4.

STATE OF OREGON,
County of Crook, ss:

I, Elisha Barnes, being first duly sworn, depose and say: I am fifty-nine years of age; that I am by occupation a stock-raiser; that I have resided in the immediate vicinity of the line of the Willamette Valley and Cascade Mountain Road Company's road since the fall of 1867. That I am personally and well acquainted with said road and every part thereof, and the work done by said company from Albany, in Linn County, Oregon, to Beaver Creek, in Crook County, Oregon, a distance of about 108 miles; that during all the time of my residence in this country I have been engaged in stock raising, and that my business has called me over said line of road frequently at all seasons of the year; that from the east end of Sweet Home Valley to Cache Creek on the east side of the Cascade Mountains, a distance of about 60 miles, they constructed a wagon road that was barely passable for light vehicles to pass over in the summer and fall when the waters were low, the grades being so narrow, with turns so short, that it was and is impossible to travel over them with any degree of safety with heavy teams or with more than four horses to a wagon, and they could not haul more over this road than two horses could draw over a good road; that ever since they first opened said road they had and now have a toll-gate on what was a county road laid out and made by Linn County, and have charged, and still continue to charge, a heavy and unreasonable toll for the privilege of traveling over a road that they neglect and refuse to work upon and keep in a condition for travel; that this part—the only part of the entire road that they ever attempted to make—was never constructed in such a manner as to earn the lands that was granted by the Government to aid in its construction, nor has there ever been at the time they pretended to construct this portion of the said road, or since or at any other time, been any lands sold to aid in the construction of said road, as was expressed in the act of Congress granting said lands; that the time given the road company to complete their road has long since expired, and they have wholly failed to make or complete any portion of their road as was contemplated by the granting act; that the line of said road crossed several different water-courses that frequently got too deep to ford, that were never bridged or had a ferry put upon them by the company or any person in their employ. The Deschutes River, a large and dangerous stream, was left by them for years without a bridge or ferry until a different party obtained a license from Wasco County and put a ferry thereon; afterwards there was a bridge built by a different company.

From the Deschutes River east to the Mountain House, on The Dalles and Canyon City road, was surveyed in the fall of 1867, and mile-posts put up along an old Indian trail that ran up the Crooked River and thence up Ochoco Creek through Summit prairie to the Mountain House, a distance of some 60 or 70 miles; and this was, with a very little exception, all that was ever done by the road company on this portion of their line of road. All the roads that were made in this country were made by the settlers who came in here and laid out roads to suit themselves, not paying any attention to the survey of the road company, and fencing it up wherever they pleased; in fact, all along through Crooked River and Ochoco valleys the survey has been almost entirely fenced up, so much so that at present there is not a trace of it to be found. I have never heard of the road company, or any of their agents, making objection to having their line of road fenced up. While it is true the company was granted but three sections per mile, there has been for many years and now is all of the odd sections on either side of their line of road for a distance of 6 miles has been withdrawn from market and no one allowed to file on the same, and the company is holding and renting all odd sections embraced in a strip of country 12 miles wide, or six sections per mile.

ELISHA BARNES.

Subscribed and sworn to before me this the 3d day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 5.

STATE OF OREGON,
County of Crook, ss:

I, Henry Grimes, being first duly sworn, depose and say: I am forty-three years of age, and by occupation a farmer and stock-raiser, and have resided in the vicinity of the Willamette Valley and Cascade Mountain Wagon-Road Company's line of road since the year of 1876, and am personally and well acquainted with their line of road from Albany, in Linn County, Oregon, to Horse Heaven, in Crook County, Oregon, and

of the Willamette Valley and Cascade Mountain Wagon-Road Company's road since the year of 1871, and am personally and well acquainted with the line of said road and have heard read the affidavit of Elisha Barnes in regard to the construction o said road, and know the facts therein stated to be substantially true.

his
LARKIN + WEAVER.
mark.

Subscribed and sworn to before me this the 3d day of November, A. D. 1885.
[L. S.] J. N. DUNCAN,
Notary Public.

R 7.

STATE OF OREGON,
County of Crook, ss:

I, J. H. Snoderly, being first duly sworn, do depose and say that I am fifty-five years of age, and by occupation a farmer and stock-raiser, and have resided in the vicinity of the Willamette Valley and Cascade Road Company's line of road from and since the year of 1869, and am personally and well acquainted with their line of road from Albany, in Linn County, to Horse Heaven Creek, in Crook County, Oregon, and have heard read the affidavit of Elisha Barnes, in regard to the onstruction of their road, and the facts therein stated are true, as I verily believe.

J. H. SNODERLY.

Subscribed and sworn to before me this the 3d day of November, A. D. 1885.
[L. S.] J. N. DUNCAN,
Notary Public for Oregon.

R 8.

STATE OF OREGON,
County of Crook, ss:

I, David E. Templeton, being first duly sworn, depose and say that I am fifty-four years of age, and by occupation a farmer and stock-raiser; have resided in what is now Crook County, Oregon, and in the immediate vicinity of the Willamette Valley and Cascade Mountain Road Company's line of road since the year of 1870, and am personally acquainted with their line of road from Albany, in Linn County, Oregon, to the head of Buck Creek, in Grant County, a distance of about two hundred miles; have heard read the affidavit of Elisha Barnes in regard to the construction of the above-named company's road, and know with my own knowledge that all of the facts therein

the affidavit of Elisha Barnes hereunto attached read; know the contents thereof and the facts therein stated and referred to since 1869 are true of my own knowledge.

A. HODGES.

Subscribed and sworn to before me this 3d day of November, 1885.

[L. S.] B. F. NICHOLS,
Notary Public.

R 10.

STATE OF OREGON,
County of Crook, ss:

I, D. W. Claypool, being first duly sworn, depose and say: I am fifty-one years of age; by occupation a farmer and stock-raiser; have resided in what is now Crook County, Oregon, and in the immediate vicinity of the Willamette Valley and Cascade Mountain Wagon-Road Company's line of road since the fall of 1867; am personally and well acquainted with their survey and line of road from Albany, in Linn County, Oregon, to Beaver Creek, in Crook County, Oregon; have heard read the affidavit of Elisha Barnes in regard to the construction of the above-named company's road, and am personally acquainted with the facts therein stated, and know of my own knowledge that they are true.

D. WAYNE CLAYPOLE.

Subscribed and sworn to before me this the 7th day of November, A. D. 1885.

[L. S.] B. F. NICHOLS,
Notary Public.

R 11.

STATE OF OREGON,
County of Crook, ss:

I, George Dodson, being duly sworn, depose and say I am forty years of age; have resided in what is now known as Crook County since 1872; that I have heard the affidavit of Elisha Barnes, hereunto attached, read, know the contents thereof, and the facts therein stated and referred to since 1868 are true of my own knowledge.

GEO. W. DODSON.

Subscribed and sworn to before me this 3d day of November, 1885.

[L. S.] B. F. NICHOLS,
Notary Public.

R 12.

STATE OF OREGON,
County of Crook, ss:

I, Daniel T. Counsil, being first duly sworn, depose and say that I am fifty-one years of age, and by occupation a stock-raiser, and have lived in the vicinity of the line of the Willamette Valley and Cascade Mountain Wagon-Road Company's road, and am personally and well acquainted with the line of said road from and since the year 1872; and have heard read the affidavit of Elisha Barnes, in regard to the construction of said road, and the facts therein contained are substantially true.

DANIEL T. COUNSIL.

Subscribed and sworn to before me this 3d day of November, A. D. 1885.

[L. S.] J. N. DUNCAN,
Notary Public.

R 13.

STATE OF OREGON,
County of Crook, ss:

I, A. Zell, being first duly sworn, depose and say that I am fifty-two years of age; by occupation a farmer and stock-raiser; that I have resided within the vicinity of the Willamette Valley and Cascade Mountain road for the last seventeen years, and am well acquainted with the original survey and route of said road from Albany, in Linn County, Oregon, east to Lost Creek, a distance of about 170 miles; that I have been over and along the line of said road often during said seventeen years, and when traveling over said road from Albany to Deschutes River have always paid said com-

pany toll at the rate of $2.50 for two-horse wagons, and $4.50 for four-horse teams; that the said Deschutes River is a stream of considerable size and dangerous to cross at any season of the year; that for several years there was neither a ferry-boat nor bridge on said stream, and not until a private citizen obtained license from Wasco County was there ever a ferry-boat placed on said stream. Some time afterward another company built a bridge across said stream; that from where the said road or survey intersects the valley on Crooked River to the upper or east end of Ochoco Valley, the old line or survey is principally fenced up; that Crooked River is a stream of considerable size, and during the spring season for two or three weeks cannot be crossed except in a ferry-boat or on a bridge; and that the said road company have never at any time had either a ferry or bridge on said stream; and the only means of crossing said stream during the spring, as above stated, is over and on the county bridge, situated about one-half mile above the company's survey on said Crooked River; that said road company have never done any work or caused any work to be done on said road, or survey, from the Deschutes east to Lost Creek, which would exceed the sum of $60 in amount.

That the only means of knowing anything about the line or route of said road was from the mile-posts placed along the survey, which posts have long since rotted down and gone, and at this time there is nothing left by which to designate the whereabouts of the said road; and the only roads used or traveled along the Crooked River and Ochoco Valleys are the county roads made by the citizens.

A. ZELL.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 14.

STATE OF OREGON,
County of Crook, ss:

I, T. J. Logan, being first duly sworn, depose and say that I am fifty-nine years of age; that I have resided in the vicinity of the Willamette Valley and Cascade Mountain road, in what is now Crook County, Oregon, since 1869; that I have heard the affidavit of A. Zell, hereunto attached, read, and know that the facts therein set forth are substantially true.

THOS. J. LOGAN.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 15.

STATE OF OREGON,
County of Crook, ss:

I, A. W. Powers, being first duly sworn, depose and say that I am fifty-two years of age; that I have been a resident within the vicinity of the Willamette Valley and Cascade Mountain road since 1873, and in what is now Crook County, Oregon; that I have heard the affidavit of A. Zell, hereunto attached, read, know the contents thereof, and know that the facts therein stated in regard to the condition of said road since 1873 are substantially correct.

A. W. POWERS,

Subscribed and sworn to before me this 8th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 16.

STATE OF OREGON,
County of Crook, ss:

I, Monroe Hodges, being first duly sworn, depose and say that I am fifty-one years of age; that I am a resident of Crook County, Oregon; that I have resided within the vicinity of the Willamette Valley and Cascade Mountain road since 1870; that I have heard the affidavit of A. Zell, hereto attached, read, and know that the facts therein stated are substantially true.

MONROE HODGES.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary public.

R 17.

STATE OF OREGON,
County of Crook, ss:

I, A. B. Webdell, being first duly sworn, depose and say that I am forty-eight years of age; that I have resided in what is now Crook County, Oregon, for sixteen years last past, and within half a mile of the survey and route of the Willamette Valley and Cascade Mountain Company's Road; that I am well acquainted with said survey and route of said road from Albany, Linn County, Oregon, to Buck Mountain, in Grant County, Oregon, a distance of about 230 miles, and since 1869 have been over and along the survey and line of said road repeatedly, and know the condition of said road each and every year, and during all seasons of each year during that said time; that said Willamette Valley and Cascade Mountain road was laid on the county road from Albany to Wiley Hill, a distance of about 36 miles east, and the travel has been on said county road ever since that time; that from the foot of Wiley Hill east to the Deschutes, a distance of about 85 miles, the said company constructed a very narrow grade road, only passable for a two-horse wagon lightly loaded; that said road crosses the Santiam River about six times at present; that no bridges have ever been made at any of said crossings, and several of the crossings were filled with rocks and bowlders, so much so as to render fording difficult at any stage of water; that the grade over and through the Cascade Mountains was so narrow (being not more than 8 feet wide, and that on steep and dangerous places) that wagons could not pass each other, except in a very few places, for miles; that from the Deschutes River east on said survey to Buck Mountain said company have not and never did to exceed $50 or $60 worth of work on said road, but in surveying said road followed the old Indian trails, following said trails down and along canyons impassable for wagons of any kind, and on which no wagon has ever traveled and cannot travel; that along and through the valleys of Crooked River, Ochoco, and Rabbit the road has never been traveled by any one, except in very few places; in fact, in many places through those valleys the survey or line of said road has been fenced by the company's renters and others for the last twelve and fifteen years, and to-day no mark or sign of said road can be found from Deschutes River to Buck Mountain, except the old Indian trails.

A. B. WEBDELL.

Subscribed and sworn to before me this 6th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 18.

STATE OF OREGON,
County of Crook, ss:

I, John F. Circles, being duly sworn, depose and say that I am twenty-eight years of age; that I have resided within the immediate vicinity of the survey and line of the Willamette Valley and Cascade Mountain Road Company's pretended road for the last nine years; that during the first five years of said time I resided in what is known as the Banner Creek country, and within three miles of said company's said survey of road; that, being engaged in raising stock, my business frequently called me over and along said survey; that I am well acquainted with said pretended road from Prineville, Oreg., east to Silver Creek, and passing through the said Beaver Creek country, and know of my own knowledge that the travel has never during said nine years been over or along said survey, except in a very few places, for said distance; that in several places on and along said survey that it is impossible for wagons to go, especially at the crossing of Beaver Creek; it is impossible for wagons to cross, and it has been in such condition for the last eight or nine years; that there is not now nor has not been for the last seven or eight years any mark or sign of said survey or pretended road; that in many places between Prineville and Silver River or Creek the survey or route of said pretended road has been fenced up, even by the company's renters, for the last six or seven years, and that the only travel through country along the said survey is on roads made by the settlers.

J. F. CIRCLES.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 19.

STATE OF OREGON,
County of Crook, ss:

I, W. M. Vanderpool, being first duly sworn, depose and say that I am thirty-three years of age, and by occupation a farmer and stock-raiser; have resided in what now is Crook County, Oregon, and near what is reported to be the line of the Willamette Valley and Cascade Mountain Company's road for the last fifteen years; have lived in Prineville and vicinity, and am well acquainted with all parts of the Crooked River and Ochoco Valleys. I never at any time during all the time I have resided here saw or knew of any wagon-road or any other road whatever being constructed through this country by the above-named company; only know by hearsay that they had surveyed a line of road through the country; know that all the roads in this country have been made by the settlers and by the county.

W. M. VANDERPOOL.

Subscribed and sworn to before me this 6th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 20.

STATE OF OREGON,
County of Crook, ss:

I, Wm. Circles, being first duly sworn, depose and say that I am sixty-one years old; by occupation a farmer and stock-raiser; that I have resided within the vicinity of the Willamette Valley and Cascade Mountain Road Company's road, lying east of the Deschutes River, for the last fifteen years; that I am well acquainted with the condition of said road, in the section above named, and that from my knowledge of the same I do not believe that any one, not even those who made the survey, could at the present time find any trace of said road; that the travel is not now, and never has been, on the line of the survey; that little or no work has ever been done on said road east of the Deschutes River; that no bridge has ever been constructed on or across Crooked River by said company, and that the only roads made within the vicinity of said Willamette Valley and Cascade Mountain road are those made by the settlers or citizens of Wasco and Crook Counties, along the section of said road first above mentioned.

WM. CIRCLES.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 21.

STATE OF OREGON,
County of Crook, ss:

I, Daniel H. Hale, sr., being duly sworn, depose and say that I am sixty-five years of age; that I am now and have been a resident of what is now Crook County, State of Oregon, for the last sixteen years; that I now live and have lived during said sixteen years in the vicinity of the survey and line of the Willamette Valley and Cascade Mountain Company's road; that I have frequently traveled on said road during said time, from the Willamette Valley, on the west of the Cascade Mountains, through and over said mountains eastward to or near Silvey's River, a distance of 75 or 100 miles east from Prineville, in said county and State, and known the conditions of said road during said sixteen years; that said road crosses the South Santiam River some seven or eight times; that the fords at crossings are and have been filled with rocks and bowlders, thoroughly rendered difficult of crossing; that no bridges have ever been placed at any of the crossings of said stream; that the road over the mountains is narrow—not more than eight or ten feet in many places—very steep in places, so much so that it would require four good horses to pull twenty-five or thirty hundred pounds on an ordinary wagon; that east of the Cascade Mountains, for one hundred and twenty-five miles, little or no work has ever been done by the company on said road other than the survey; that for eight or ten years last past the road has been fenced up in many places, and that it is not possible at the present time for any one to find where the road was originally located.

D. W. HALE, SR.

Subscribed and sworn to before me this 2d day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public for Oregon.

R 22.

STATE OF OREGON,
County of Crook, ss:

I, B. F. Allen, being duly sworn say, that I am fifty-two years of age; by occupation a farmer and stock-raiser; that I have resided within about 8 miles of the Willamette Valley and Cascade Mountain road since 1870; that I am now a resident of Crook County, Oregon, where I have resided since the above date; that I have been over the line or survey of said road often during said time; that said company have never made or constructed any road east of the Deschutes River as far as to Silver Creek, in Grant County, and thereupon the Crooked River and Ochoco Valleys the said survey is, and has been for years, most all fenced up; that is, if the road runs where I have been informed it does.

B. F. ALLEN.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 23.

STATE OF OREGON,
County of Crook, ss:

I, Josephus Wilson, being duly sworn, say that I am forty years of age; by occupation a farmer and stock-raiser; that I have been a resident of what is now Crook County for fourteen years; that I have resided in the immediate vicinity of the Willamette Valley and Cascade Mountain road during said period; that I am well acquainted with the survey and line of said road from Albany, in Linn County, Oregon, to Beaver Creek, in Crook County, Oregon, and know that the above-named company have never constructed any road east of the Deschutes River, as far as I am acquainted; that the surveyed line of said road has been almost entirely fenced up all along through Crooked River and Ochoco Valley, so much so that there is scarcely any trace to be found at this time.

JOSEPHUS WILSON.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 24.

STATE OF OREGON,
County of Crook, ss:

I, R. M. Templeton, being first duly sworn, depose and say I am twenty-four years of age, and by occupation a farmer; have resided in what now is Crook County, Oregon, and in the immediate vicinity of the Willamette Valley and Cascade Mountain Wagon-Road Company's line of road since the year of 1870; am personally acquainted with the above-named company's line of road from Albany, in Linn County, Oregon, to Horse Heaven Creek, in Crook County, Oregon. Known with my own knowledge that the above-named company has for years been renting the odd sections more than three miles from the surveyed line of their road.

R. M. TEMPLETON.

Subscribed and sworn to before me this the 7th day of November, A. D. 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 25.

STATE OF OREGON,
County of Crook, ss:

I, J. P. Carnes, being first duly sworn, depose and say that I am sixty-three years of age; that I am a resident of, and have been for the last fifteen years, of what is now Crook County, Oregon; that I have resided continuously, for said time, within the vicinity of the Willamette Valley and Cascade Mountain Company's road; that I am a farmer and stock-raiser; that I have frequently been over and along the line of said road, from Albany, in Linn County, Oregon, as far east as Lost Creek during said fifteen years; that the said road was laid on the county road from Albany to the upper or east end of Sweet Home Valley, a distance of about 30 miles; that from said last-

named point, passing up the Santiam River and over the Cascade Mountains to Cache Creek, on east side of the Cascades, the company expended considerable money in building a narrow-grade road, crossing the Santiam some seven or eight times, most of the crossings being filled with bowlders and rocks, making the fording or crossing difficult at ordinary stage of water and impassable at high water; that none of said crossings at streams were ever bridged; that at many of the grades on said road through the mountains it was impossible for wagons to pass on account of the narrow grade; that from Cache Creek east to Lost Creek, a distance of about 90 miles, along the survey of said road very little if any work was ever done on said road, other than the servey and an occasional stake to mark the line of survey; that through and along the Crooked River and Ochoco Valleys, the land along the survey has for several years past been fenced and cultivated by the settlers; besides, a number, if not all persons to whom the company have leased lands, have also fenced up and cultivated the lands where said survey was made; that the only roads through those valleys open to travel are the county roads made by the citizens; that from Prineville east to Lost Creek there is not at this time any evidence or sign of said survey or road left.

J. P. CARNES.

Subscribed and sworn to before me this 2d day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 26.

STATE OF OREGON,
County of Crook, ss:

I, J. H. Claypool, being first duly sworn, depose and say: I am forty-seven years of age; by occupation a farmer; have lived more or less in what is now Crook County, Oregon, and in the immediate vicinity of the Willamette Valley and Cascade Mountain Road Company's line of road since the year 1868; am personally and well acquainted with said line of road from Albany, in Linn County, Oregon, to where the surveyed line of road leaves the Ochoco Creek, in Crook County, Oregon; know that the above-named company has never constructed any road east of the Deschutes River, as far as I am acquainted; know that the surveyed line has been almost entirely fenced up all along through Crooked River and Ochoco Valleys, so much so that there is hardly a trace to be found at this time.

J. H. CLAYPOOL.

Subscribed and sworn to before me this the 7th day of November, A. D. 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 27.

STATE OF OREGON,
County of Crook, ss:

I, J. P. Hunsaker, being first duly sworn, depose and say: I am fifty-eight years of age, and, by occupation, a farmer; have resided in what now is Crook County, Oregon, and in the immediate vicinity of the Willamette Valley and Cascade Mountain Wagon Road Company's line of road from Albany, Linn County, Oregon, to Horse Heaven Creek in Crook County, Oregon; that I am personally and well acquainted with the above-named company's line of road for eleven years last past; that I have heard the affidavit of J. H. Claypool, hereto attached, read, and the facts therein set forth are true of my own knowledge.

J. P. HUNSAKER.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 28.

STATE OF OREGON,
County of Crook, ss:

I, J. H. Miller, being first duly sworn, depose and say that I am forty-five years of age; that I have resided in what is now Crook County, Oregon, and within the immediate vicinity of the Willamette Valley and Cascade Mountain Road Company's road

since 1868; that I am well acquainted with the original line and survey of said road from Sweet Home Valley, in Linn County, to Harney Valley, in the State of Oregon; that in the year 1869 I, in company with another party, left the Upper Ochoco Valley for the Harney Valley; we intended, and, in fact, attempted to travel on said road or survey, but were unable to follow the line or survey of the road for the reason that it was impossible to follow it through the marshes and over steep hills, and for the further reason that there was no mark or sign of a road other than an occasional stake driven to indicate the route—no grading or cutting of brush, except where it was absolutely necessary to pass with a hack, which they had cut or narrowed down so as to travel on said line of road and in which they carried provisions and the governor's agent; that said road was so unfit for travel with a wagon that on our return trip we traveled on another and better road (the old Stein road).

JAMES H. MILLER.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] B. F. NICHOLS,
Notary Public.

R 29.

STATE OF OREGON,
County of Baker, ss:

I, Joseph A. Morton, being duly sworn, say that I have been a resident of Willow Creek, Malheur River and vicinity, in Baker County, Oregon, for thirteen years, and am well acquainted with what are known as military road lands from about mouth of Malheur River, or eastern boundary of State, westerly for 100 miles, and know all the roads in that part of country; that I have traveled often where said road is supposed to have been constructed by the Willamette Valley and Cascade Mountain Wagon-Road Company; that no work, grading, bridging or otherwise has ever been done by said wagon-road company from Snake River westward for 100 miles; that all the roads of that country were made by emigrants, citizens and local people, and not by said Military Road Company.

J. A. MORTON.

Subscribed and sworn to before me this 7th day of August, A. D. 1885.
[L. S.] M. D. WISDOM,
County Clerk,
By J. T. TILSON,
Deputy.

R 30.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's road," and "The Dallas Military Wagon-Road Company's road." Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.

STATE OF OREGON,
County of Baker, ss:

I, J. R. Baxter, being duly sworn, depose and say that I am a resident of Jordan Valley, in Baker County, for twenty-one years; that I am well acquainted with the lands known as Oregon Central Military Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys of the said company; that I have traveled over said lands from the Owyhee River up Jordan Valley to eastern State line of Oregon, and that I was present when the said company ran the line, survey, view or route of a road through Jordan Valley aforesaid; that said company at said time ran said line, survey, view or route over a road already built and in use at said time, and for a long time prior thereto; and that since said time no work, grading, bridging, or otherwise, has ever been done upon said route by said company; that all the roads upon the lands claimed by said company along said route from said points, through said Jordan Valley, have been the work of citizens, settlers, and teamsters, and not of said company.

J. R. BAXTER.

Subscribed and sworn to before me, this 21st day of July, 1885.
[L. S.] I. D. HAINES,
Commissioner.

R 31.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution, No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, D. D. Munger, being duly sworn, depose and say that I am a resident of Jordan Valley, in Baker County, for twenty years; that I am well acquainted with the lands known as Oregon Central Military Wagon Company's land, and know the route: that the road aforesaid is located upon said lands by the surveys or views of the said company; that no regular survey was ever made by said company; that I have traveled over said lands from Owyhee River to eastern boundary of State, and that no road was ever built over said route by said company; that I have traveled over the route of the company where said company should have built said road, from Camp Alvord to eastern boundary of State of Oregon, a distance of 130 miles; that the roads along said route have been built by private persons, citizens, settlers, and teamsters, at a cost of $3,000, and not by said company; that no work has been done upon said route by said company; that said company run their line in 1867 over a road already built from Fort Alvord to eastern boundary of Oregon and have never done any work since.

D. D. MUNGER.

Subscribed and sworn to before me, this 2d day of November, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public.

R 32.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution, No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, I. P. Ross, being duly sworn, depose and say that I am a resident of Malheur country in Baker County, in State of Oregon, for four years; that I am well acquainted with the lands known as Oregon Central Military Wagon-Road Lands claimed by said company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Harney Lake to Snake River with Teller's party of United States surveyors while surveying that country under contract for United States; that I was one of said party, and worked with them about four months; that the surveys so made crossed the line claimed by said company as its road where it should be at these places, and we explored and hunted for said Oregon Central Military Wagon-Road at said points [and] other places, with a special view to find same, but was never able to discover any trace or sign of any such road, no sage brush cut or stakes, no grading, no bridging, no rocks thrown out, or anything or sign of ever being done to make such road by said company; that I drove the first wagon through that country in 1882, not on line of said pretended road of said company, but crossing where it should go—but no wagon can go on said pretended road of said company.

I. P. ROSS.

Subscribed and sworn to before me this 17th day of October, 1885.
[L. S.] I. D. HAINES,
Commissioner.

R 33.

Thirteen session legislative assembly, State of Oregon.

[House concurrent resolution, No, 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, F. P. Ball, being duly sworn, depose and say that I am a resident of Sucker Creek precinct, in Baker County, for two years; that I am well acquainted with the lands known as Oregon Central Military Road lands, east of Owyhee River, and know Jordan Valley, and know the route that the road of said company aforesaid is located upon said lands by the surveys of said company; that I have traveled over said lands from Owyhee River to eastern boundary line of Oregon many times, and have never seen any military road or any thing that resembled a military wagon-road; that my business was teaming from Winnemucca to Silver City, through Jordan Valley.

F. P. BALL.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 34.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution, No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, P. L. Ford, being duly sworn, depose and say that I am a resident of Cow Valley, in Baker County, for two years; that I am well acquainted with the lands known as Oregon Central Military Wagon-Road Company's, and know the route; that the road aforesaid is located upon said lands by the surveys of the company; that I have traveled over said lands from the Owyhee River up Jordan Valley to the eastern boundary of the State of Oregon; that I have traveled over the route where such road should be, but have never seen any such road; no work has been done along said route, either grading, bridging, or otherwise, except what has been done by citizens in the vicinity of the same, to my knowledge, and that said company has not done any such work.

P. L. FORD.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 35.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, Mary O'Keefe, being duly sworn, depose and say that I am a resident of head of Sucker Creek, in Baker County, and vicinity, for eighteen years; that I am well acquainted with the lands known as Oregon Central Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys

of said company; that I have traveled over said lands from Owyhee River up Jordan Creek to State line, and have traveled over said route where said road should be, if any existed; that I have never seen any work done on said route, and to the best of my knowledge no work, grading, bridging, or otherwise has been done on any such military road route up Jordan Creek, or across Owyhee to Harney Lake.

her
MARY + O'KEEFE.
mark.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 36.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, J. H. Fenwick, being duly sworn, depose and say that I am a resident of Upper Sucker Creek, in Baker County, Oregon, for four years; that I am well acquainted with the lands known as the Oregon Central Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys of the said company; that I have traveled over said lands from mouth of Jordan to State line, east, and have traveled over said route where said road should be located if any existed there; that I have [not] seen any work done on any such road, and have not seen any grading, bridging, or other work that has been ever done in the past.

J. H. FENWICK.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 37.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, John Bird, being duly sworn, depose and say that I am a resident of Cow Creek country, in Baker County, for twelve years; that I am well acquainted with the lands known as the Oregon Central Military Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys of the said company; that I have traveled over said lands from the Owyhee River to eastern boundary of State, and never saw a road built by said company during twelve years last past; that had said company built such road I would have known it; that I have been teaming over said country since 1874, and had to build my own road, and know positively that said road was not built by said company anywhere over the route indicated; and the bridges and ferries in said country were private property, and not built by said company.

JOHN BIRD.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public for Oregon.

R 38.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, John McMahon, being first duly sworn, depose and say that I am a resident of head of Sucker Creek, in Baker County, for twenty years; that I am well acquainted with the lands known as Oregon Central Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys of said company; that I have traveled over said lands from Owyhee River, up Jordan Creek to State line, and have traveled over said route where said road should be, if any existed; that I have never seen any work done on said road, and to the best of my knowledge no work, grading, or bridging, or otherwise, has been done on any such military road up Jordan Creek, or across Owyhee to Harney Lake, to best of my knowledge.

JOHN McMAHON.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 39.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, A. F. Canter, being duly sworn, depose and say that I am a resident of Jordan Valley, in Baker County, for 21 years; that I am well acquainted with the lands known as Oregon Central Military Wagon-Road Company's lands, and know the route; that the road aforesaid is located upon said lands by the surveys or view of the said company's; that no actual surveys were ever made by said company; that I have traveled over said lands from Twelve Mile Creek to Boonville, Indian Territory, and from Owyhee River to eastern boundary of Oregon; that said company commenced to measure the road over a good toll road from said Boonville, Indian Territory, eighteen miles east of State line, in the year 1867; I have been over the route between the above-mentioned points where said road should be if any existed: said company never built any road along said route, if they had, I would have known it; said company never did any work, nor absolutely anything in the way of bridging, grading, or otherwise, toward building a road.

A. F. CANTER.

Subscribed and sworn to before me this 21st day of July, 1885.
[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 40.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, H. B. Bell, being duly sworn, depose and say that I am a resident of Jordan Valley, in Baker County and vicinity, for three years: that I am well acquainted with the lands known as Oregon Central Military Wagon-Road Company's lands, and know

the route; that the road aforesaid is located upon said lands by the surveys of said company; that I have traveled over said lands from the eastern boundary line of Oregon westward to White Horse, and that the only roads over said route have been made by persons traveling, and thereby breaking said roads, and not by said company; that no work has been done by said company in the way of making any road, either by grading, working, or otherwise, over said route between said points.

H. B. BELL.

Subscribed and sworn to before me this the 21st day of July, 1885.

[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 41.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, Martin Chrisman, being duly sworn, depose and say that I am a resident of Baker County, Oregon, near Jordon Valley, in said county, for seven years; that I am well acquainted with the lands known as Oregon Central Military Road lands in said county, east of Owyhee River, and know the route; that the road aforesaid is located upon said lands by the views or surveys of said company; that I have traveled over said lands from Owyhee River to eastern part of State, and the said Oregon Central Military Wagon-Road Company have never done any work on any road in Jordon Valley, grading, bridging, or otherwise, to my knowledge.

MARTIN CHRISMAN.

Subscribed and sworn to before me this 21st day of July, 1885.

[L. S.] THORNTON WILLIAMS,
Notary Public, State of Oregon.

R 42.

STATE OF OREGON,
County of Grant, ss:

Personally appeared before me, H. C. Jarrell, county clerk of Grant County, State of Oregon, Thomas Howe, and made oath that he and John Douglass expended about nine thousand dollars ($9,000) in cash to build the wagon-road from the head of John Day's River, in said Grant County, and State aforesaid; said wagon-road is a part of the wagon-road known as The Dalles military road; that they, the said Thomas Howe and John Douglass, constructed the same from the head of John Day's River to a point on Snake River opposite old Fort Boise; all of said part of said Dalles military road lies in the counties of Grant and Baker, State of Oregon; that no part of said road, viz., between the head of John Day's River and Snake River, was constructed by the Dalles Military Road Company, or any sum of money paid by such company for that purpose, or by any other company, person, or persons.

THOMAS his + mark HOWE.

The above-named Thomas Howe made oath that the foregoing declaration by him subscribed is true, before me.

[L. S.] H. C. JARRELL,
County Clerk, Grant County, Oregon.

R 43.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's' road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, William R. Gradon, being duly sworn, depose and say that I am a resident of Grant County, in the State of Oregon, for one year; that I am well acquainted with the lands known as Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from where the 44th parallel of north latitude crosses range 24 east of Willamette meridian, to the eastern boundary of Harney Valley, a distance of about 80 miles, and have carefully examined said country, and have never been able to discover the least trace of any road having been constructed by said wagon-road company.

WILLIAM R. GRADON.

Subscribed and sworn to before me this 24th day of October, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 44.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution, No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, John S. Wilson, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for four years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from Prineville to Camp Harney, and from observation and inquiry have been unable to find any more than one-quarter of a mile of road built by any one up to 1871.

JOHN S. WILSON.

Subscribed and sworn to before me this 27th day of October, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 45.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution, No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's Road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, Seth Bower, being duly sworn, depose and say that I am a resident of the State of Oregon, in Grant County, for one year; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands

by the plat of surveys of the United States; that I have traveled over said lands from the eastern to the western boundary of the Malheur Indian Reservation, and from personal observation and careful inquiry have been unable to find or hear of any signs of any road having been built by said road company.

SETH BOWER.

Subscribed and sworn to before me this 23d day of October, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 46.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Roat Company," and the Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, E. E. Abbott, being duly sworn, depose and say that I am a resident of the State of Oregon, in Grant County, for —— years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from Prineville to Harney City, and from personal observation and inquiry have failed to find the least trace whatever of any road having been built by the said wagon-road company, and by inquiry of the oldest settlers I am unable to find any person who has seen any trace whatever of any road.

E. E. ABBOTT.

Subscribed and sworn to before me this 25th day of October, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 47.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, T. J. Howard, being duly sworn, depose and say that I am a resident of the State of Oregon, in Grant County, for one year; that I am well acquainted with the lands known as the Willamette Valley and Cascade Mountain Wagon-Road Company's land, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from the Cascade Mountains to Camp Harney, on the line of said proposed road, and from careful observation and inquiry, find that the said road company built no road whatever from the said Cascade Mountains to Camp Harney; that I have been frequently over different portions of said route before I became a permanent citizen of Grant County.

T. J. HOWARD.

Subscribed and sworn to before me this 23d day of October, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 48.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, R. F. Claypool, being duly sworn, depose and say that I am a resident of Oregon, in Grant and Wasco Counties, for eight years; that I am well acquainted with the lands known as lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from Prineville to Camp Harney, and have frequently traveled over the route over which said Willamette Valley and Cascade Mountain Wagon-Road Company contracted to construct a wagon-road and have never seen any trace whatever of any road having been constructed by said company.

R. F. CLAYPOOL,

Subscribed and sworn to before me this 15th day of September, 1885.
[L. S.] A. W. WATERS,
Notary Public, Oregon.

R 49.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, T. A. McKinnon, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for two years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States across the Malheur Indian Reservation; that I have traveled over said lands from the western line of said reservation to the eastern portion of Harney Valley, a distance of 40 miles, and have carefully examined said country, and have never been able to discover the least trace of any road having been constructed by said wagon-road company.

T. A. McKINNON.

Subscribed and sworn to this 16th day of September, 1885.
[L. S.] A. W. WATERS,
Notary Public.

R 50.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and the "Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, J. W. Fuqua, being duly sworn, depose and say that I am a resident of Harney Valley, in Grant County, for one year; that I am well acquainted with the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company,

and know the route; that the road aforesaid is located upon said lands by the plat of surveys of the United States; that I have traveled over said lands from Prineville to Camp Harney, and have never been able to discover a single trace of any wagon-road made by the said Willamette Valley and Cascade Mountain Wagon-Road Company; that to my own knowledge the said road company never constructed any road from Prineville to Camp Harney, a distance of about 160 miles.

J. W. FUQUA.

Subscribed and sworn to before me this 17th day of August, 1885.
[L. S.] A. W. WATERS,
Notary Public for Oregon.

R 51.

STATE OF OREGON,
County of Marion, ss:

I, Frank McBean, first being duly sworn, depose and say: I am acquainted with the route over which the Willamette Valley and Cascade Wagon-Road should be constructed, and I have been so acquainted with it since 1870; that I was present when the directors of the Willamette Valley and Cascade Mountain Wagon-Road Company accepted the road; that said directors could not get over said route by reason of there being no road over same; that this was in 1871 or 1872, and there has been no road built over said route by said company since; that I resided at Camp Harney at said time, and continued to reside in the Harney Valley up to 1882; that over a good portion of said route through said country there never was any road at all, and all the roads on other portions of same are roads built and constructed by emigrants and citizens and soldiers, except a road built by the soldiers, known as the Stein wagon-road, from Prineville into Harney Valley, claimed by said company to be part of their road; but said company did not build said road, nor have they repaired same, but the same was made by the troops for the purpose of hauling supplies to Camp Harney in 1871.

FRANK McBEAN.

Subscribed and sworn to before me this —— day of November, 1885.
[L. S.] I. D. HAINES,
Commissioner.

R 52.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company." and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, Joseph P. Rector, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for six years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from the western line of the Malheur Indian Reservation, to near the eastern boundary of the State, and by personal observation and careful inquiry, I am satisfied that the said road company never built any road whatever on the said Indian reservation.

JOS. P. RECTOR.

Subscribed and sworn to before me this 10th day of November, 1885.
[L. S.] A. W. WATERS,
Notary Public for Oregon.

R 53.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, T. J. Morrison, being duly sworn, depose and say that I am a resident of Oregon, in ——— county, for twenty-five years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Albany, Linn County, Oregon, to Camp Harney, Grant County, and from personal observation and careful inquiry have been unable to see or hear of the least trace of any wagon-road made by said company from Prineville, Crook County, to Camp Harney, Grant County.

T. J. MORRISON.

Subscribed and sworn to before me this 9th day of November, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 54.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, W. L. Edelman, being duly sworn, depose and say that I am a resident of Oregon, in ——— County, for twenty-eight years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Albany, Oreg., to the eastern boundary of the Malheur Indian Reservation, and from careful inquiry and personal observation I have been unable to hear of or see any trace whatever of any road made by said road company from Prineville to the eastern line of said Indian reservation.

W. L. EDELMAN.

Subscribed and sworn to before me this 9th day of November, 1885.
[L. S.]

A. W. WATERS,
Notary Public.

R 55.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, J. M. Hutchings, being duly sworn, depose and say that I am a resident of Oregon, in ——— County, for ——— years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road

Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Albany, Oreg., to the eastern portion of the Malheur Indian Reservation, and from careful inquiry and personal observation I have been unable to see or learn of the least trace of any road made by said road company from Prineville to the eastern boundary of said reservation.

J. M. HUTCHINGS.

Subscribed and sworn to before me this 9th day of November, 1885.
[L. S.] A. W. WATERS,
Notary Public.

R 56.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, C. A. Morrison, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for five years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Prineville, Crook County, to Camp Harney, in Grant County, and from careful inquiry and personal observation I have been unable to hear of or see the least trace of any wagon-road having been made by said wagon-road company anywhere between Prineville to Camp Harney.

C. A. MORRISON.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] A. W. WATERS.
Notary Public for Oregon.

R 57.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, W. W. Jones, being duly sworn, depose and say that I am a resident of Oregon, in ——— County, for ten years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Prineville, in Crook County, to the eastern boundary of the State of Oregon, and I am of opinion that said company never built any wagon-road from Prineville to the eastern portion of the State, as specified in the act of Congress granting lands for that purpose; that I have made inquiry of old settlers and from such inquiry and personal observation I make this affidavit.

W. W. JONES.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.] A. W. WATERS,
Notary Public for Oregon.

R 58.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon Road-Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, Joseph A. Wright, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for three years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Prineville, Crook County, to the eastern line of the Malheur Indian Reservation, and from careful inquiry and personal observation, I have been unable to find or hear of any road whatever having been constructed by said wagon-road company from Prineville to the eastern line of said reservation or any part of said distance.

JOSEPH A. WRIGHT.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 59.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, O. Farrou, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for four years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Prineville, Crook County, to Harney City, and know from personal observation and careful inquiry that no road whatever was made by said road company. From where range 24 crosses the 44th parallel of north latitude to Camp Harney the said road company constructed no road.

O. FARROU.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 60.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Baker, ss:

I, L. S. Zumwalt, being duly sworn, depose and say that I am a resident of Oregon for forty years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the

United States; that I have traveled over said lands from Albany, Oreg., to Camp Harney, in Grant County, and from careful inquiry and personal observation I have been unable to see or hear of the least trace of any road having been made by said road company from Prineville to Camp Harney.

L. S. ZUMWALT.

Subscribed and sworn to before me this 6th day of November, 1885.
[L. S.]
A. W. WATERS,
Notary Public for Oregon.

R 61.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, Abraham Rizer, being duly sworn, depose and say that I am a resident of Oregon, in ——— County, for thirty-three years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Albany, Oreg., to Camp Harney, in Grant County, and from careful inquiry and personal observation I know that said road company never made any road from Prineville to Camp Harney.

ABRAM RIZER.

Subscribed and sworn to before me this 7th day of November, 1885.
[L. S.]
A. W. WATERS,
Notary Public.

R 62.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's' road, and "The Dalles Military Wagon-Road Company's road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, U. S. G. Thompson, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for one year; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from the Cascade Mountains to the eastern portion of Harney Valley, and from personal observation and careful inquiry I have been unable to find any road whatever built by said road company.

U. S. G. THOMPSON.

Subscribed and sworn to before me this 27th day of October, 1885.
[SEAL.]
A. W. WATERS,
Notary Public for Oregon.

R 63.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, Samuel King, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for one year; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I traveled over said lands from the western to the eastern portion of the Malheur Indian Reservation, and from personal observation and careful inquiry I have been unable to find the least trace of any road having been built by the said road company, nor have I found any person who has seen any signs whatever of any work having been done by said company on said Indian reservation.

SAMUEL KING.

Subscribed and sworn to before me this 28th day of October, 1884.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

R 64.

Thirteenth session legislative assembly, State of Oregon.

[House concurrent resolution No. 14, to investigate the wagon-road of "Willamette Valley and Cascade Mountain Wagon-Road Company," and the "Oregon Central Military Wagon-Road Company's" road, and "The Dalles Military Wagon-Road Company's" road. Committee: I. D. Haines, A. R. Lyle, and G. W. McHaley.]

STATE OF OREGON,
County of Grant, ss:

I, T. M. Post, being duly sworn, depose and say that I am a resident of Oregon, in Grant County, for three years; that I am well acquainted with the lands known as the lands claimed by the Willamette Valley and Cascade Mountain Wagon-Road Company, and know the route; that the road aforesaid is located upon said lands by the surveys of the United States; that I have traveled over said lands from Prineville, Crook County, to the eastern line of the Malheur Indian Reservation, and from careful inquiry and personal observation I have been unable to find or hear of any road whatever having been built by said wagon-road company.

T. M. POST.

Subscribed and sworn to before me this 5th day of November, 1885.
[L. S.]

A. W. WATERS,
Notary Public for Oregon.

S 1.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

G. E. Fields, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence and occupation.—A. George E. Fields; forty-eight years; Lake County, Oregon; farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am. That portion between Warner Valley and

the head of Sprague River; first became acquainted with it in May 1869; have passed over it as many as three times since that time.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. I know that the said company have never done any work on a road through the above described section of country unless it be a small grade on Drew's Creek and a pole bridge on a slough in the upper part of Goose Lake Valley, nor have I ever at any time seen any stakes or other marks of even a survey of any such road through said section of country. That I do not believe that that portion crossing what is known as the Goose Lake Slash can now or ever could be crossed with a team or a horse without miring down. I have resided and own land in the immediate vicinity of the line of the said purported road since 1869, and have never seen or heard of any work being done by said company on any part of said purported road through said section of country.

That I do not believe that any one could have followed the line of the said purported road through said section of country without the aid of the field-notes, a compass, and chain from then to the present time.

G. E. FIELDS.

Subscribed and sworn to before me this fifth day April, 1886; and I do hereby certify that the affiant is a man of respectability, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court of Lake County, the day and year in this certificate above written.

[SEAL.]

A. F. SNELLING,
County Clerk of Lake County, Oregon.

S 2.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

J. W. Loveless, being first duly sworn according to law, in answer to the following interroga ories, deposes and says:

Q. State your name, age, residence, and occupation.—A. J. W. Loveless; age, fifty-five years; occupation, farmer and stock-raiser.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am; I came to this country May, 1872; rode over and drove cattle all over the vicinity of the route of the alleged road through Goose Lake Valley at divers times since above-mentioned date to the present.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. There were no signs of a road of any kind in said vicinity. It would have taken a practical surveyor with field-notes to have ever traced the location of any road, and it would have been impossible to find any grade stakes or other marks made by said road company. Have been personally acquainted with the route of the said alleged road through the above-described territory for the last fourteen years, and to my certain knowledge the road was never constructed; that during my acquaintence with said route the tract commonly called the "Slash," in Goose Lake Valley, has been impassable for either horse or vehicle, and there never has been even an attempt to construct a road across on the route of the said alleged road.

J. W. LOVELESS.

Subscribed and sworn to before me, the undersigned county clerk in and for Lake County, Oregon, this 20th day of March, 1886; and I do hereby certify that the affiant is a person of respectability, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court of said county the day and year last above written.

[SEAL.]

A. F. SNELLING,
County Clerk.

S 3.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

N. Roberts, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Newton Roberts; aged twenty-eight years; Warner Valley; stock-raiser.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am; from Sprague River to Skull Creek, Grant County. First passed over it in 1875, and have passed over parts of it every year since to the present time.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. There is no road constructed over the above-described territory, except a passable road traveled, which was constructed by the citizens and the soldiers from Fort Warner.

N. ROBERTS.

Subscribed and sworn to before me this 20th day of March, 1886; and I do hereby certify that the affiant is a person of respectability, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court this 20th day of March, 1886.

[SEAL.] A. F. SNELLING,
County Clerk, Lake County, Oregon.

S 4.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

I. S. Eccleston, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. I. S. Eccleston; forty-two years; Goose Lake Valley; farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what time you passed over it.—A. I am; am acquainted with said road from Eugene City to Warner Valley; first passed over it in 1872, and have passed over it four or five times since.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. They have constructed a passable road from Eugene City to Sprague River, and from the western boundary of Lake County to Warner Valley, in Grant County, Oregon. They have never constructed any road of any kind. There is a kind of a road between the last two mentioned points which was made by the citizens and soldiers, a large portion of which is not on the line of the Oregon Central military wagon-road.

That portion crossing what is known as the Goose Lake Slash has never been and is not now passable with a horse or wagon. There is not visible a grade, bridge, or stake through the portion last-above described made by said company by which said road is traceable.

I. S. ECCLESTON.

Subscribed and sworn to before me this 27th day of March, 1886; and I do hereby certify that the affidavit is a person of credibility, to whose statements full faith and confidence are due.

Witness my hand and the seal of the county court of Lake County, Oregon, the day and year in this certificate above written.

[SEAL.] A. F. SNELLING,
County Clerk, Lake County, Oregon.

S 5.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

R. R. Tandy, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Robert R. Tandy; fifty-five years; Goose Lake Valley; farmer and stock-raiser.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central Military Wagon-Road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am; am acquainted with that portion lying between Eugene City and the east side of Goose Lake Valley. First became acquainted with it in 1869, and have passed over it in the years 1869, 1870–'71, and once since.

Q. State what you know of your own personal knowledge in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. I know that said company constructed a passable road from Eugene City, Lane County, to Round Grove, near the western boundary of Lake County, from which last-mentioned point to the east side of Goose Lake Valley, in Lake County, they have never constructed any road, and during the wet season that portion crossing what is known as the "Goose Lake Slash" has ever been and now is utterly impassable for horse or vehicle.

R. R. TANDY.

STATE OF OREGON,
County of Lake, ss:

Subscribed and sworn to before me this 23d day of March, 1886, and I do hereby certify that the affiant is a person of respectability, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court of said county, the day and year in this certificate above written.

[SEAL.]

A. F. SNELLING,
County Clerk.

S 6.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

S. A. Hamersley, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. S. A. Hammersley; forty-four years; Goose Lake Valley; farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central Military Wagon-Road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. Am acquainted with said country from the western boundary of Lake County to Warner Valley; have been acquainted with it since 1870; have passed over it numerous times since.

Q. State what you know of your own personal knowledge in regard to the construction of a road by the said Oregon Central Military Wagon Road Company through that section of country you have above described.—A. They have never made any road or attempted to make any; there is no marks of a road between said points made by said company, except a few trees blazed along the line of the old road made by the settlers and the soldiers; and there was once a small pole bridge across Hampton Creek, in the head of Goose Lake Valley. The travel is now and ever has been around the head of Goose Lake Valley, and not on the line of the Oregon Central Military Wagon-Road Company's road; that portion which crosses the Goose Lake Slash is and ever has been impassable during one-half of the year for horsemen or teams.

S. A. HAMERSLEY.

Subscribed and sworn to before me this 27th day of March, 1886; and I do hereby certify that the affiant is a person of credibility, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court of Lake County, Oregon, the day and year above written.

[SEAL.]

A. F. SNELLING,
County Clerk of Lake County, Oregon.

S 7.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

Merodith Wade, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Merodith Wade; forty years; Lake County, Oregon; a farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central Military Wagon-Road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am; am best acquainted with that portion lying between the west boundary line of Lake County and the east side of Goose Lake Valley; became acquainted with it in 1870; have passed over it as many as six times since.

Q. State what you know of your own personal knowledge in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. I know that said company have never constructed any road between the above-named points, and that there is not now, nor never has been any grades, bridges, or stakes visible by which the line of a road could be traced through said section of country and that that section known as the "Goose Lake Slash" is now and has been since 1870, during one-half of the year, impassable for stock or wagons.

MERODITH WADE.

STATE OF OREGON,
County of Lake, ss:

I, A. F. Snelling, county clerk in and for the above county and State, do certify that the above affiant subscribed his name thereto in my presence and was by me sworn thereto, and that I know him to be a person of respectability, to whose statements full faith and credence are due.

Witness my hand and the seal of the county court of said county this 27th day of March, 1886.

[SEAL.]

A. F. SNELLING,
Clerk of Lake County, Oregon.

S 8.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

H. M. Daniels, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. H. M. Daniels; forty-seven years; Goose Lake Valley, Lake County, Oregon; farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central Military Wagon Road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am. Am acquainted with that portion lying between the western boundary of Lake County and Warner Valley. Became acquainted with it in the year 1873 and the years following to the present time.

Q. State what you know of your own personal knowledge in regard to the construction of a road, by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. There is not now nor never has been since the above-mentioned-time any sign of a road constructed by said company in said vicinity. There are no stakes or other marks by which a road could ever have been traced, except blazes on trees for a short distance between Drew's Valley and Round Grove, which were along the line of the old road made by the soldiers and citizens in traveling between Forts Warner and Klamath. Have been personally acquainted with the route of the said alleged road through the above-mentioned territory for the last thirteen years, and to my certain knowledge the road was not built, nor has any attempt ever been made to construct a road. That during my acquaintance with said route the tract known as the Goose Lake Slash, in Goose Lake Valley, has been impassable for either horse or wagon.

H. M. DANIELS.

Subscribed and sworn to before me this 30th day of March, 1886, and I do certify that the affiant is a person of respectability, to whose statements full faith and credit are due.

Witness my hand and the seal of the county court the day and year in this certificate above written.

[SEAL.]

A. F. SNELLING,
County Clerk of Lake County, Oregon.

S 9.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

STATE OF OREGON,
County of Lake:

A. Z. Hamersly, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Andrew Z. Hamersly; am fifty-six years of age; reside in Goose Lake Valley, Lake County, Oreg.; am a farmer.

Q. How long have you resided in Goose Lake Valley, Lake County, Oreg.?—A. I came here in the summer of the year 1869, and have resided here ever since.

Q. Are you acquainted with section of country, or any part thereof, through which the Oregon Central military wagon-road was purported to have been constructed; if so, state what part?—A. I am; am acquainted with that portion lying between Eugene City, Lane County, and Warner Lake, Lake County, Oreg.

Q. State what you know in relation to the construction of a wagon-road through that section you have just mentioned by the Oregon Central Military Wagon-Road Company?—A. In the year 1869 I passed over that portion lying between Eugene City and Goose Lake, at which time I found a passable road from Eugene City to Crescent Lake, from which point we made a road for a distance of 50 or 60 miles to the old road leading from the Dalles to Fort Klamath, from which latter place I came to Goose Lake Valley by way of the road made by emigrants and the military; have been over that portion lying between the west boundary line of Lake County and Warner Valley twice since the year 1882, and I found no road other than that constructed by emigrants and the soldiers. The Oregon Central Military Wagon-Road Company have never constructed any road from the western boundary of Lake County, Oreg., to Warner Lake, in Grant County, Oreg.

A. Z. HAMERSLY.

Subscribed and sworn to before me, the undersigned, this 17th day of March, 1886, and I do certify that the above-named affiant is a person of respectability, to whose testimony full faith and credit are due.

Witness my hand and the seal of the county court of said county the day and year last above written.

[SEAL.]

A. F. GUELLING.
County Clerk.

S 10.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

B. Warner, being first duly sworn according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Benjamin Warner; age, fifty-two years; Kelly Creek, Oreg.; farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I passed over this road from Warner Valley down through Warner Cañon in 1868, but saw no indication of a road at that time. Was also over said road in 1870 from Lakeview to Sprague River.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road, by the said Oregon Central Military Wagon-Road Company, through that section of country you have above described.—A. The only work that was visible was the crossing to said river on either side. I saw no other places on the road that indicated that work had been done by this company.

BENJ. WARNER.

LAKEVIEW, OREG.,
April 1, 1886.

Subscribed and sworn to before me this 1st day of April, 1886.

J. W. BONEBRAKE,
Justice of the Peace for Lakeview Precinct, Lake County, Oregon.

S 11.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

Milton Brown, being first duly sworn, according to law, in answer to the following interrogatories, deposes and says:

Q. State your name, age, residence, and occupation.—A. Milton Brown; age, seventy-one; residence, Summer Lake, Oreg.; occupation, farmer.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. A portion; between Eugene and Warner Cañon; a portion in the year 1869, and the whole of the route between Eugene and Warner Cañon in the following years—1870, 1871, 1872, and 1874.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. The road was very well built by the company as far as Sprague River. A little work was done along Sprague River to Round Grove; from there to Warner Cañon there was no road opened on the survey. The company did nothing but survey the route and blaze trees. The only travel between these points is on the old emigrant road, and the company's survey is not on that emigrant road.

MILTON BROWN.

Subscribed and sworn to before me this 29th day of March, A. D. 1886.

[SEAL.] A. F. SNELLING,
County Clerk,
By J. H. CLAYTON,
Deputy.

S 12.

The People v. *The California and Oregon Land Company, assignees of the Oregon Central Military Wagon-Road Company.*

AFFIDAVIT.

A. W. Charlton, being first duly sworn, according to law, in answer to the following interrogatories deposes and says:

Q. State your name, age, residence, and occupation.—A. A. W. Charlton, thirty-eight years, Lakeview, Lake County, Oregon; occupation, sheriff of Lake County, Oregon.

Q. State whether or not you are acquainted with any part of the country through which the Oregon Central military wagon-road was purported to have been constructed. If so, state what portion, and when you became acquainted with it, and at what times you passed over it.—A. I am acquainted with that portion of it lying between Eugene City in Lane County and Warner Valley in Lake County, Oregon. I passed over it from Goose Lake in Lake County to Eugene City in July, 1873, and have passed over that portion running through Lake County frequently since.

Q. State what you know, of your own personal knowledge, in regard to the construction of a road by the said Oregon Central Military Wagon-Road Company through that section of country you have above described.—A. Said company built a passable road from Eugene City in Lane County, Oregon, to where said alleged road leaves Sprague River in Klamath County, Oregon, but from where said alleged road leaves Sprague River to Warner Lake in Lake County, said company did not build any road; where said alleged road crosses Goose Lake Valley is now, and always has been, impassable for vehicles or even for horsemen.

A. W. CHARLTON.

STATE OF OREGON,
County of Lake:

Subscribed and sworn to before me this 20th day of March, 1886, and I do hereby certify that the affiant is a person of respectability to whose statements full faith and credit are due.

Witness my hand and the seal of the county court the day and year in this certificate above written.

[SEAL.]

A. F. SNELLING,
County Clerk, Lake County, Oregon.

T.

To the Senate of the United States:

The memorial of the California and Oregon Land Company respectfully represents:

(1) That by acts of Congress, approved July 2, 1864 (13 Stats., 355), and December 26, 1866 (15 Stats., 374), lands were granted the State of Oregon "to aid in the construction of a military road from Eugene City to the eastern boundary of the State," and by the State conferred upon the Oregon Central Military Road Company.

(2) That said company duly and seasonably constructed the whole of said road, and the fact thereof was certified by the governor of said State to the Secretary of the Interior, as required by said acts.

(3) That the cost of said construction exceeded the amount realized by said company from the said land grant.

(4) That upon the faith of said certificates of complete construction by the governor, as aforesaid, and the opinion of eminent counsel, your memorialist thereafter purchased said land grant, paying therefor $125,000 cash, such purchase being made in good faith, without notice or knowledge of fraud arising from failure to construct any portion of said road or otherwise.

(5) That since said purchase your memorialist has paid taxes on said lands aggregating nearly $30,000.

(6) That the legislature of Oregon has recently adopted a memorial, addressed to Congress, alleging that the eastern portion of said road was not constructed, and praying that a forfeiture of the grant be declared as to such portion.

(7) That such memorial has been presented to this honorable body, and sundry resolutions have been introduced directing inquiry by the Committee on the Public Lands into the truth of such allegations.

(8) That your memorialists thereupon sought and procured the evidence of persons connected with the said Oregon Central Military Road Company at the time of such construction and of divers others who were connected with the work of construction or residents of the country at the time said road was constructed, from all of which it appears beyond controversy that said road and each and every part thereof was fully and properly constructed from its initial point, Eugene City, to its terminal on the eastern boundary of said State, precisely as shown by its maps of located and constructed route, and the certificates of the governor of said State now on file with the Secretary of the Interior, and that from the time of such construction to the present the said road has been constantly used for travel and freighting, as originally contemplated.

And your memorialist submits herewith the testimony of said persons as establishing the facts of construction and continued use of said road, and the purchase thereof by your memorialist, being—

1. Affidavit of B. J. Pengra, superintendent.
2. Affidavit of W. H. Odell, surveyor.
3. Affidavit of W. B. Pengra, foreman.
4. Affidavit of George H. Thurston, assistant surveyor.
5. Affidavit of John M. Drake.
6. Affidavit of Peter French.
7. Affidavit of C. B. Watson.
8. Affidavit of J. A. S. Patterson.
9. Affidavit of Joseph G. Gray.
10. Affidavit of J. H. Evans.
11. Affidavit of W. S. Ladd.
12. Affidavit of David P. Thompson.
13. Affidavit of E. B. Pond and M. P. Jones.
14. Affidavit of M. H. Harlow.
15. Affidavit of R. N. Van Brunt.
16. Statement of A. D. Cannon.
17. Statement of James A. Walker.
18. Statement of Thomas H. McClaine.
19. Statement of J. H. Hill.
20. Statement of J. W. Hill.
21. Statement of John Blakely.
22. Statement of Frank S. Warren.
23. Statement of Stephen Rigdon.
24. Statement of George W. Larrison.

(Nos. 16 to 24, inclusive, are not sworn to, because taken remote from any point where an officer authorized to administer oaths could be found.)

All of which your memorialist prays may be taken as a part hereof, and that upon the facts established thereby its title may remain undisturbed.

THE CALIFORNIA AND OREGON LAND COMPANY,
By its counsel, BRITTON & GRAY.

T 1.

STATE OF OREGON,
County of ———, *ss.:*

I, B. J. Pengra, being first duly sworn, on oath depose and say that I am a resident of Oregon; have been for 33 years; formerly of Lane County, but now of Crook County. My age is 63 years. I was one of the original incorporators of the company known as the "Oregon Central Military Wagon-Road Company," and held different positions in the company during the time of its entire existence. That company was incorporated on the 14th day of April, A. D. 1864, first with a capital stock of $30,000, which was increased in December of that year to $100,000. In May following the commencement of the organization the first work done by the company was to proceed with the survey of 46¼ miles of the road from Eugene City easterly into the Cascade range of mountains, and on the 14th of October of that year, 1864, there was conveyed to the company by act of the legislative assembly of the State of Oregon the grant of lands made to the State of Oregon by the Congress of the United States, approved July 2, 1864, and amendatory act, approved December 26, 1866, for the purpose of constructing the military wagon-road from Eugene City, by way of the Middle Fork of the Willamette River, and most feasible pass in the Cascade range of mountains, by way of Diamond's Peak to the eastern boundary of the State, near the southeast corner of the same; and in the spring following, in the year 1865, I was appointed and authorized by the company to proceed with an exploration of the country through which the line of road was to pass, and superintend the loca-

tion and construction of the same. I entered upon that duty some time in July of that year, and completed the survey and location of the road. as afterwards constructed, from Baety's Butte (on my return) back to Eugene City, a distance of about 300 miles, as my recollection serves me.

Prior to the time of leaving on that expedition I organized a working company and placed them under the management of George W. Larrison, of Lane County, to construct the road from Eugene City to Butte Disappointment, a distance of 20 miles—the first division of the road—and contracted with Benjamin Simpson for the construction of 45 miles of said road from that point eastward, in the Cascade range of mountains, at the rate of $1,000 per mile. He commenced construction under his contract during the month of June. On my return from the exploration and location of the part of the road heretofore mentioned I found the road completed to Butte Disappointment, and, under the management of Mr. Simpson, completed for a distance of about 38 miles, making in all, for that season, about 58 miles of constructed road. On these two divisions of the road there had been employed in the two working parties about sixty men through the season. In the spring following, 1866, Mr. Simpson was relieved of the unfinished portion of his contract for the reason of a financial embarrassment resulting from the low rates at which the work had been contracted for on his part.

I then proceeded with the construction of the road by the employment of my brother, William B. Pengra, as foreman of the work, who completed the road that season for a further distance of about 15 miles, as I recollect. The season following I continued Mr. Pengra in the management of construction, with the addition of Mr. Mahlon Harlow, who, during that season, had the charge of bridge building, and they completed the road that year to Crescent Lake, a point about 85 miles, I think, southeast from Eugene City, and 8 miles east of the summit of the Cascade range of mountains.

The following season I was, after the death of Judge Stratton, who had up to that time served as president of the road, elected president of the company, and I placed William H. Odell in management as superintendent of construction, who had formerly acted as engineer in the survey and location of the route, who employed under him Mr. George H. Larrison as foreman in charge of one of his working companies, and Mr. Walton as foreman of another company of his men, employing in the two companies an average of forty men throughout the season. That season, having arrived in the country east of the mountains where the work was lighter, the two companies constructed the road from Crescent Lake to Round Grove, near the head of Sprague River Valley, a distance of about 145 miles, in all 230 miles to last-named point, which included all of the heavy work; the season following, Mr. Odell, by further appointment under the authority of William S. Ladd, president of the company, and by order of the board of directors, was continued as superintendent of construction and directed to complete the location from Baetty's Butte and complete the construction from Round Grove to the terminus at the eastern line of the State, which he did as contemplated in the organization.

There was constructed during the entire operation of building the road not less than ninety-five bridges, large and small. In the passage of the first important stream, the Coast Fork of the Willamette River, it was passed by the construction of a ferry-boat, which continued to be used until the stream was crossed by a bridge; and the second, which was the Middle Fork of the Willamette River, was likewise passed by a ferry-boat, at which point a ferry has been maintained to this day, for the reason that a bridge cannot be successfully maintained at that place. From that on the streams were, nearly all of them, with a few exceptions, bridged. The first important bridge was built across the North Fork of the Middle Fork of the Willamette River by contract with James Wallace, now dead, and a gentleman by the name of Horn, for the sum of $1,000, as I recollect. The most important and expensive bridge, or causeway, was one built across the Klamath marsh for a length of 5,170 feet. The work through the Cascade range of mountains was hard and difficult on account of the rocky grades along the mountain sides, and the passage through heavy, dense forests of timber. In passing through the great forest near the foot of the main summit ridge on the west, the timber was so extremely thick and heavy as to make it necessary to burn it on the ground, as it was impossible to pass it out between the standing trees to any great extent.

Through the timbered regions of country on the east side of the Cascade range of mountains on to Goose Lake Valley there was far less of this difficult work, though over a majority of that distance we were passing through open pine forests.

The width at which the road was cleared in the Cascade range of mountains was 30 feet, in compliance with the statute laws of the State of Oregon, and the grades were made 16 feet in width, except along the mountain sides, where, under the law, we were permitted to lessen them to a breadth of 12 feet where the cutting was at a greater depth than 4 feet, but turnouts were made every 200 feet along said narrow grades to meet the requirements of the law, which were strictly complied with; but through the district of country named from the eastern summit of the Cascade range

of mountains to Goose Lake Valley the timber was generally cleared for a width of 40 feet, and never less than 30 feet. From Goose Lake Valley on to the terminus of the road on the eastern boundary of the State we had no timbered country to pass through, except for a very short distance, not to exceed 3 miles, in the ascent of the mountain ridge on the eastern side of Goose Lake Valley, and from this mountain ridge eastward to the terminus there was comparatively but a small amount of work to do to prepare the road for travel and successful freighting, and those exceptions were passing over the rocky tables, ascending and descending the ridges intervening over the general face of the plain.

Over this part of the road, so far as I have passed along the line since the construction, the same care in construction and same method was followed as in the description of the fore part of the most mountainous portions of the road. The company expended in the construction of the road sums as follows:

One hundred thousand dollars raised from the capital stock of the company, which was fully paid up.

Twelve thousand seven hundred and five dollars and sixteen cents received from the sale of lands.

Fifteen thousand eight hundred and thirty-three dollars and eighty-two cents received as a loan from Ladd & Tilton.

And they disposed of the remaining portions of the grant for the sum of $125,000, not quite covering the cost of construction and management up to that time, and without leaving anything as interest for the capital expended. The original incorporators entered into the enterprise for the purpose of furnishing to the Willamette Valley a way of transit across the Cascade range of mountains, and for the purpose of developing, and as a means of highway by which the country east of the range could be occupied for such purposes as the country would sustain, and without any view to speculation or money-making.

That the business of the company was entered into in good faith, and in that spirit the work was prosecuted to successful completion. The region of country through which the road passed, after a distance of the first twenty miles, was totally unoccupied so far as we knew throughout the remaining length of the line, except by one settler in the midst of the Cascade range of mountains, and no road had ever been constructed into or through that portion of the country or any part of the line from the before-mentioned distance of twenty miles to the eastern limit of the State, but during the progress of construction I visited General Steel, then in command of the Government forces on this coast, in company with Governor Gibbs, then governor of the State of Oregon, and urged him to establish a military post near Goose Lake Valley, in the vicinity of the line surveyed, for the purpose of protecting the working companies in the construction of the road, which request was complied with on the part of General Steel by instructions of Col. George Crook; and on entering the country for the purpose of establishing a military post at or near the point designated by me, he found it necessary to bridge what is known as the connection of the waters in Warner Lake Basin, and to do some work along the line as it had been surveyed and passed over by me, following my track for a distance, perhaps, altogether of some twenty miles, which partial work of construction the company, of course, took advantage of on arriving upon the ground with their working parties; completed the work already begun by Colonel Crook, and it was afterwards found on arriving at Jordan Creek Valley, after crossing the Owyhee River, that settlement had already began up the valley of said stream, and that the road was open upon the line on which we were incorporated, and travel had began for a distance of about forty miles; and but a small amount of work was required over this distance, for the reason of the work previously done by the settlers, and for a further reason that on account of the natural condition of the country very little was required to construct said portion of the road.

During the period of the construction of the road, and upon the survey of the different divisions thereof, triplicate maps were made setting forth the route of the survey, which were presented to the executive department of the State, and upon approval received the certificate of the governor and seal of the State, one copy of which was forwarded to the Interior Department of the Government of the United States, and one left on file with the State of Oregon, and upon the construction of the road in divisions the first portion of the Cascade range of mountains was passed over in person by Governor Gibbs, and the construction thereof was approved by him. Copies of said approval, together with the act conveying said land to said company, were forwarded from time to time to the Commissioner of the General Land Office as an evidence of the location and completion of said road by said company, and in compliance with the laws of the State of Oregon and of the United States, and upon the final completion of the road, under the superintendence of William H. Odell, a further certificate of approval by the then governor, George L. Woods, upon the inspection of parties authorized by said governor, was furnished to the Interior Department as a final evi-

dence of the completion of the road in compliance with the requirements of the before-named acts.

A further evidence of the location and construction of the road will be found in the returns that have been made in surveys by the General Government throughout the entire length of the line of road from the entrance of the same in the Cascade range of mountains to the eastern boundary of said State. Notes of survey, having been made by different deputies under the employment of the General Government, will show the existence of the road wherever their line crossed it. From the time that the road was constructed through the Cascade range of mountains up to the present said road has been continually used as a way of transit for passing droves of stock into and out of the country, and for the passing of all kinds of freight by wagons required in the new settlements, which began during the time of the construction of the road and have been continued to the present day. It was the first route constructed over which travel was possible from the head of the Willamette Valley into Southeastern Oregon, and that route, together with the two since constructed, are the only highways passing through the range of mountains into Eastern from Western Oregon, except at the extreme southern and northern boundaries of the State, and all the supplies we needed during the time of construction were passed over the line of road by us by teams kept for that purpose, and I have continued passing over the mountains and other portions of the road every year from the time of its construction to the present date, and living where I do—in the country east of the Cascade range of mountains—I use it for the transportation of all supplies used by me in that region of country.

I have no personal interest whatever in the lands of said grant, and have not had since the final sale of said grant in October, 1874, except a small body of 320 acres, which I disposed of about four years back, and have no interest whatever in any of said lands at this date.

In regard to the mountainous and barren character of a large portion of these lands, I hereby affirm that full one-half of them have no present value, and that, as a further evidence of the facts contained herein, I have attached hereunto my report to said Oregon Central Military Road Company, of November 29, 1865.

B. J. PENGRA.

Subscribed and sworn to before me this 1st day of March, A. D. 1886.

JOEL WARE,
County Clerk,
By W. R. McCANACK,
Deputy.

T 2.

STATE OF OREGON,
County of Multnomah, ss:

I, W. H. Odell, being first duly sworn on oath, depose and say, that—

I am a resident of Oregon; have been for the past thirty-four years; am at present a resident of Salem, Marion County, and have been for the last eight years; am now postmaster at Salem.

In the spring of 1864, by reason of my occupation as a surveyor, I was engaged by the Oregon Central Military Wagon-Road Company to make the preliminary surveys from Eugene City eastward to the point known as Little Prairie, a distance of about 45 miles.

This work was entered upon in June of the year 1864, under the direction of B. J. Pengra, who was at that time superintendent of the road company. In July, 1865, I was employed by B. J. Pengra, superintendent of the company, to accompany his expedition and make a survey of the road eastward from the point last mentioned.

After making the necessary explorations, I commenced the survey of said road on a line adopted by Mr. Pengra, superintendent, at or near Beatty's Butte, and surveyed the road and made the necessary field notes upon the line afterwards adopted by the company as the proposed road, and upon which the road was afterwards constructed westward to the connection at the point of the previous survey at Little Prairie, in the Cascade range of mountains. In the spring of 1869 I was employed by the superintendent of the company to superintend the construction and completion of the road on the line of the survey from Crescent Lake eastward.

During the summer of 1869, under my supervision, the road was built from Crescent Lake to Round Grove, a point at the head of Sprague River Valley, a distance of about 145 miles. I had under my employ, the greater part of the working season, an average of 40 men. The road was constructed in a substantial manner, the bridges were well built, and the road cleared of timber and obstructions for an average width of 40 feet.

A bridge was constructed across the Klamath marsh, a distance of 5,170 feet.

A substantial bridge was erected across the North Fork of Sprague's River, spanning the stream about 60 feet in width.

A good and easy grade was constructed at the upper and last crossing of Sprague's River, and all necessary grades and culverts were made to make it a first-class wagon-road the entire distance from Crescent Lake to Round Grove.

During the summer of 1870, I was further employed as superintendent of construction to make necessary repairs in the road already constructed, and to complete the same from Round Grove eastward to the State boundary.

From Round Grove eastward to the crossing of the mountains of Goose Lake was mainly through an open pine timber country of easy grade and easily constructed. This portion of the road through the timber was cleared on an average of 40 feet; grades and culverts made on all crossings of streams where necessary to make a good road.

From the mountains to the east of Goose Lake eastward is through an open prairie country or table land, the greater portion of the country being barren and comparatively level, but little work being needed or required, except on the descent of hills or crossing of ravines.

At all these points easy grades were constructed.

In passing over Stein's Mountain considerable work was necessary in preparing grades and bridging streams, as was also clearing out stones on the descent on the eastern slope.

From Stein's Mountain eastward to the Owyhee River was through an open country, for the greater part barren, offering but few obstructions to travel. Very little work was needed to make a good road, but what little was needed we did.

Crossing the Owyhee, which is readily fordable at all seasons except during the high water in early spring, the route lay up the Jordan Valley, an easy grade, open country, and requiring little or no labor to construct a road, except at one or two points. At these points all necessary work was done to make it an easy road to travel. When completed, the road for the entire length was a good mountain road, over which freight teams travel without difficulty, and fulfilled the objects for which it was intended. I have frequently traveled over the road between Goose Lake and Eugene City, and have always found said road in good condition for travel.

I am neither directly or indirectly interested in the lands earned by the construction of this road.

W. H. ODELL.

Subscribed and sworn to before me this 25th day of February, 1886.

[SEAL.] R. G. MORROW,
Notary Public for Oregon.

T 3.

STATE OF OREGON,
County of Lane, ss:

I, W. B. Pengra, of Springfield, Lane County, State of Oregon, being first duly sworn, do hereby depose and say, that I have been a citizen of this State for thirty-two years; that, having been engaged three years in the construction of the Oregon Central military wagon-road, built from Eugene City, in this State, to the eastern boundary thereof, and afterwards employed, at various times, as a deputy United States surveyor in the Government surveys along and over the line of said road, I became well acquainted with nearly the entire route and construction of the same.

That I first worked as a foreman in the employ of Benjamin Simpson during the spring, summer, and fall of the year 1865, and afterwards for two seasons as foreman under the superintendence of B. J. Pengra, and until the road was completed from Eugene City to Crescent Lake, on the east side of the Cascade range of mountains.

The road was cleared of timber for a breadth of 30 feet, and graded from 12 to 16 feet in width; that the streams, of which there were a great number, were nearly all bridged except the coast fork and middle forks of the Willamette River.

That said road was thoroughly and well built for the purpose of a wagon-road, and much of it at great expense on account of the mountainous nature of the route. This was especially the case over the Cascade range of mountains where I was employed, and the money expended was paid out to those employed only for the number of days actually in service, at rates common to the country at the time, and not wasted in salaries.

I further affirm that at the time the construction of the road began, and to the time of its completion to the eastern base of the Cascade range, there was *no road* passing through said mountains from the west to the east throughout the entire breadth of the State, except near the extreme northern and southern boundary of the same, and

at that time there was no road—none having been built—throughout the part of the State where said road was constructed and is yet traveled; that said Southeastern Oregon has been settled and organized into counties since the building of said road, and that said settlement began by occupation of settlers who, to a large extent, passed into the country over said road, and settled along the same, and that said road is still in use as a wagon road. I further certify that I have no ownership in said road, nor in the lands within the grant by the United States, made "to aid in the construction" of the same.

W. B. PENGRA.

Subscribed and sworn to before me, a notary public for the State of Oregon, this 1st day of March, 1886.

[SEAL.]

A. WHEELER,
Notary Public, State of Oregon.

T 4.

STATE OF OREGON,
County of Lane, ss:

I, George H. Thurston, being first duly sworn, did depose and say:

(1) State whether you are acquainted with the Oregon Central military wagon-road, and how long have you known the same.—A. I am acquainted with said road. Have known of the same since 1864 and 1865.

(2) If ever employed in its construction and survey, by whom and when employed?—A. I assisted in the survey of the road from Beaty's Butte to the Little Prairie in 1865. Was employed on construction in 1869 from the Deschuttes River to Sprague River Valley.

(3) As to how or in what manner constructed—as to clearing, width of grades, &c., and your knowledge as to who had charge of construction, survey, and location.—A. Timber and undergrowth were cut and cleared to a good width. Grades were wide enough for loaded freight teams to pass over with safety. Construction, survey, and location were mainly superintended by B. J. Pengra.

(4) Was there any other constructed road at the time when this was begun, which crossed the Cascade range of mountains from west to east, and whether this was not the first road built into and though Southeastern Oregon?—A. There were no roads at that time constructed across the Cascade range of mountains, except one from or near Oregon City to Tygh Valley and another from near Ashland, in Southern Oregon, to Fort Klamath.

(5) State whether the settlement of the country and the organization of the same into counties has not begun since, and whether immigration into that portion of the State passed in over this road and settled along the some or any part thereof.—A. The settlement of the country and the organization of counties has principally begun since the construction of this road. Immigration has passed over the road and settlement made along the line and in other parts of Southeastern Oregon.

(6) State whether travel still passes along said road, and whether any other road has since been built running parallel therewith, and if so, what roads and how near to the Oregon Central military wagon-road they were built, and at what time.—A. Travel still passes over said road. The Willamette Valley and Cascade Mountain wagon-road has since been constructed from Albany, Oregon, to Washoe Ferry, on Snake River and parallel with the Oregon Central military wagon-road, at a distance of 40 to 60 miles north.

(7) State whether you have passed over any portion of said road since built; when and how often?—A. I passed over the entire line of road in 1880 with a buckboard and span of horses. Had frequently passed over portions of it prior to that time with freight teams and stock.

(8) State whether said road, in your knowledge, is still used as a public highway.—A. So far as my knowledge extends it is. I passed over the Cascade range of mountains on said road in September, 1885.

(9) State whether you ever owned any interest in the said road or the grant of lands thereunto belonging.—A. I never owned any interest in said road or any of the lands.

GEO. H. THURSTON.

Subscribed and sworn to before me this 1st day of March, 1886.

[SEAL.]

JOEL WARE,
County Clerk, Lane County, Oregon.

T 5.

STATE OF OREGON,
County of Multnomah, ss:

I, John M. Drake, of the city of Portland, State of Oregon, having been first duly sworn, do hereby depose and say that I have been a citizen of the State of Oregon for twenty-seven years, and have been a resident of the city of Portland over twenty years; that I was elected secretary of the Oregon Central Military Road Company, at a meeting of the board of directors of said company held at the city of Portland, May 23, 1871, and that I served continuously as such secretary from that date until the dissolution of the said company, May 25, 1875; that at the time I assumed the duties of secretary, as aforesaid, the books of the said company were turned over to me by my predecessor in the said office, Mr. J. B. Underwood, who is now dead, and that I kept the books of the said company during the period I served as its secretary, performing the clerical work myself, the records and accounts being all in my own handwriting, and now, at this day, February 25, 1885, I have had access to the books of the said company, and have examined the same, and, from and after an examination of said books and records as aforesaid, I make the following statement of facts concerning the said books and the business of the said company:

The company was organized by filing articles of incorporation, dated April 14, 1864, with a capital stock of $30,000, in shares of $250 each, and the capital stock was raised to $100,000 by a vote of a meeting of stockholders held at Eugene City, December 16, 1864; that the said articles of incorporation set forth the object and business of said company to be that of constructing and operating a road suitable for the use of pack trains, wagons, and other conveyances from Eugene City, Oreg., in a southeasterly direction, to the southeastern corner of the State of Oregon by way of the middle fork of the Willamette River, for the conveyance and transportation of military and Government stores, and other supplies and property; that the said books show that the said capital stock, $100,000, as aforesaid, was all subscribed and fully paid up, and was all expended by said company for the construction of its road as provided in its articles of incorporation, and in the trrnsaction of business necessarily incidental thereto, together with the proceeds of the sales of sundry parcels of its lands, amounting to $10,145.17, and the proceeds of several loans, amounting, with interest thereon, to $15,833.82, and also that three several tracts of land, amounting to 1,280 acres, of the value of about $2,560, were given for services rendered, making an aggregate of $128,538.99 expended by the said company as aforesaid, and that after the completion of the said road the said company sold out its lands and its wagon-road, and proceeded to dicincorporate, which was done by a vote of the board of directors May 25, 1875, after having first cancelled its capital stock and divided its assets.

I furthermore depose and say that I have heard read an affidavit made the ——— day of February, 1886, by B. J. Pengra, one of the original incorporators of the said Oregon Central Military Road Company, giving a history of the said company, and a detailed account of the construction of its road and other business, and that the facts therein set forth and stated by the said B. J. Pengra correspond with my information and knowledge of the company's affairs; and I further depose and say that previous to my election as secretary of the said Oregon Central Military Road Company, I had knowledge of the existence of said corporation and of its objects and purposes through public rumor and notoriety, and that in its early history it was commonly understood to be an enterprise formed for the purpose of opening an outlet for the products of the Willamette Valley into the, at that time, newly discovered mining regions of Eastern Oregon and Idaho, the two sections of country being separated by a high and impassible range of mountains, and a wide expanse of mountain and desert country, and to the best of my information the said company was not organized for speculative purposes. I furthermore declare and say that I was not at any time a stockholder in the said Oregon Central Military Road Company; that I never had any personnl interest in any of its lands, and that I am not now personally interested in any of the said lands.

JNO. M. DRAKE.

Subscribed and swown to before me this 25th day of February, 1886.
[SEAL.] WALLACE MOUNT,
Notary Public for Oregon.

T 6.

STATE OF OREGON,
Multnomah County, ss:

I, Peter French, being first duly sworn, say: I am a citizen of the State of Oregon and a resident of Grant County, in said State, and have resided in said State and county for fourteen years last past.

That I am well acquainted with the route of the "Oregon Central military road.' as the same is located and constructed through said Grant County, and between Lakeview, in Lake County, and the Owyhee River, in Baker County, in said State of Oregon, a distance of about 200 miles.

That I have not been eastwardly over said military road beyond said Owyhee River, nor westwardly of Lakeview, along said road, except where I have occasionally crossed the same.

That during my residence in said Grant County, Oregon, I have been engaged in the cattle business and have frequently traveled said road, beginning in the year A. D. 1872.

That in said year last aforesaid said wagon-road was, and has since continued to be, and now is, a very good mountain wagon-road, sufficient for the purposes for which it was constructed and intended, and the travel and freights of that part [of the] country has, during all that time, passed over the same, except for short distances, where changes have been recently made for the purpose of improving the grade thereof.

That there is no constructed county road within a distance of 40 to 80 miles of the line of said Oregon Central military road or running parallel therewith within said Grant County.

That when I first became a resident of said Grant County the county through which said road passes was very sparsely settled. I was the first on our side of the mountain, and I think there were but six other people upon the line of the road between the Owyhee and Lakeview; these six settlers, like myself, having come into the country after the construction of the road.

PETER FRENCH.

Subscribed and sworn to before me this 26th day of February, A. D. 1886.
[SEAL.] N. D. SIMON,
Notary Public for Oregon.

T 7.

STATE OF OREGON,
County of Multnomah, ss:

I, C. B. Watson, being first duly sworn, depose and say that I am a citizen of the State of Oregon, and have resided therein for sixteen years last past; that I am personally acquainted with the Oregon Central military wagon-road, having frequently passed over portions of it since 1872.

In 1872 I traversed said road from the point where it enters Sprague River Valley, in township 34 south, range 9 east, to the Idaho line, a distance of about 340 miles.

At that time there were, to the best of my recollection, but about six families living along the entire line of said road between Sprague River Valley and the Owyhee, and at that time all the principal streams in Sprague River Valley were bridged with substantial bridges, over which we crossed. Other streams along that portion of the line were also bridged, while at the smaller ones good fords had been prepared, the approaches being graded where it was necessary.

Over rocky table-lands the rocks had [been] thrown from the road upon either side.

Through the timber, the timber and brush had been cut away to a width of about 40 feet, and where grades were necessary they had been built.

That portion of the road lying east of Goose Lake Valley, being chiefly over a table-land, or series of table-lands, in great part level and without timber—covered only with sage brush and bunch grass—little work was required more than the survey and marking the lines thereof. Teams and wagons could readily pass over it any where.

At Warner's Lake there was what was known as the "Stone Bridge;" the lake, which is about one-half mile wide, had been filled with rockwork to the surface of the water, making a good crossing, over which we crossed. At that time, the country being sparsely settled and Indian troubles frequent, there was but little travel, and the road in places was somewhat overgrown with grass.

In 1873 I was over a portion of this road again, and I found much more travel than in 1872. Since then I have frequently passed over portions of the road, and latterly have found the line of travel, in some places, varying from the original line of survey, especially on the level plains. From the spring of 1878 to the fall of 1881, I resided at Lake View, within the line of the Oregon Central military wagon-road grant in Goose Lake Valley, and during that time had occasion frequently to pass over portions of this road, which, to that point from the west, was a road of general travel. As the settlements increased along the line this road was adopted and used as the route of travel, and has ever since been so traveled, with the exception of such changes as were made from time to time to accommodate settlements not directly upon the

line. There was also a slight divergence of four or five miles on the road to accommodate the change from Old Camp to New Camp Warner. Through the mountains and the heavily timbered portions of the line of the road a great amount of work was done.

Over that portion of the country lying eastward from Goose Lake Valley, where the road ran over table-lands, bearing nothing more than sage brush and bunch grass, as previously stated, but little more work was required than to make the survey and mark the lines, and it would be difficult to say that the same line of travel had been followed from one year to another over those portions of the line that were barren or covered with grass only, except at places where streams were crossed.

Through Alvord Valley and Jordan Valley the country is almost level, covered only with sage brush and bunch grass, with occasional barren spots of alkali and sand; through such tracts, owing to drifting sands and like causes, without a large amount of travel, it would be difficult from one year to another to maintain exactly the same line, or to say that the line of survey had been continuously followed.

In 1873 I was assisting United States survey in Sprague River Valley, and also in Goose Lake Valley, in which we had occasion to cross and to mark the line of this road in our field notes; and in 1879 I was United States deputy surveyor, having contract near Stein's Mountain, at the point where this road crosses said mountain, and also in Drew's Valley, west of Goose Lake Valley, where my starting point was at this road and so marked on the field notes. At all these places I invariably found a well-defined wagon-road constructed upon the general line of said military road (with occasional divergencies, as have been before mentioned), in good condition for travel, except that in some places there had, at that time, been washouts from high water in the gulches. I have not now and never did have any interest in said road or grant.

C. B. WATSON.

Subscribed and sworn to before me this 27th day of February, A. D. 1886.
[SEAL.] N. D. SIMON,
Notary Public for Oregon.

T 8.

STATE OF OREGON,
County of Lane, ss:

I, A. S. Patterson, being first duly sworn, depose and say that I am a resident of Eugene City, Lane County, Oregon, and have been since 1854; that I was one of the original incorporators of the Oregon Central Military Wagon-Road Company; that said company was incorporated in Eugene City, in this State, in the year 1864, and, having been elected as one of its officers, and afterwards serving in different capacities during most of the time of the construction of said road and up to the time that its office was removed from Eugene City to Portland, which was in the year, as I recollect, of 1869, I was thoroughly and well acquainted with the transactions of its business up to that date, at which time my ownership in stock and relationship to said company ceased; that the location of said road by survey began in May, 1864, and the location and construction was thoroughly entered into in the spring of 1865; that during that year I constructed for the company and put into operation the ferry-boat on the Coast Fork and Middle Fork of the Williamette River, and during this time I was thoroughly conversant with the work being carried on by the working company, organized under the control of George W. Larrison, from Butte Disappointment to Eugene City, and likewise with the work at the difficult point in the mountains known as Point Lookout; that I was likewise conversant and had knowledge of the construction of that part of the route for 45 miles in the Cascade range of mountains, and beyond the work executed by Larrison, which was included in the contract of and being done by Benjamin Simpson.

That I was personally acquainted with the construction said line of road from Eugene City to a point within 3 miles of Summit Lake, having passed over said portion after the periods hereinbefore mentioned with W. H. Corbette, at that time United States Senator; Horace F. Stratton, Jno. Stewart, and B. J. Pengra; and I know that over said portion of the road that nearly all of the streams, except the hereinbefore named, were crossed by good and substantial bridges for wagon-road purposes, and in the exceptions named the streams were crossed by good fords.

And I further certify that so far as the balance of the road is concerned, that the construction of the same was understood to be thoroughly and well done.

I further certify at the time of the commencement of the construction of this road there was no road constructed across said Cascade range of mountains from the central portions of the State on the west, and none whatever until after it was built, except the one which crossed the range at the extreme northern boundary, and the one near the southern boundry of said State; and the country known as Southeastern

Oregon was unsettled through the portions through where this road was constructed, and that the settlement and organization of the same into county governments has taken place since this, and the other route now lying parallel therewith and lying from 40 to 80 miles to the north of said Orange Central military road.

And I hereby certify that I have no ownership in said road, nor the lands granted to the State of Oregon by the United States to aid in the construction of the same, and have not had since the year 1869.

A. S. PATTERSON.

Subscribed and sworn to before me this 1st day of March, 1886.
[SEAL.] JOEL WARE,
County Clerk,
By W. R. McCANACK,
Deputy.

T 9.

STATE OF OREGON,
County of Lane, ss:

I, Jos. G. Gray, of Eugene City, Lane County, and State of Oregon, being first duly sworn, depose and say that I have been a citizen of this county and State since 1853: that my age is sixty-one years; that I have had a general knowledge of the construction of what is known as the Oregon Central military wagon-road since the commencement of the survey and construction of the same in the years 1864 and 1865, and that I went over the road with General E. L. Applegate during the summer of 1867 or 1868 from Eugene City to Crescent Lake, on the eastern side of the Cascade range of mountains; that this was at the time of the inspection of the construction of said road by Mr. Applegate, under an appointment from the then governor of the State, and that said road had been completed from Eugene City to said lake prior to the time of said inspection; that except the crossings of Coast Fork and the Middle Fork of the Willamette River, which were then crossed by ferry-boats, the most of the streams were substantially bridged, and those remaining and unbridged were crossed by good fords; that the road was constructed through the mountains at a great expense on account of the nature of the work, and it was my understanding at the time, and it is still my recollection, that it was built strictly in compliance with the laws of this State made to govern the same, and was in all respects a good wagon road.

I further certify that at that time no other road had been built across said mountains from the west to the east or otherwise, except those at the extreme northern and southern boundaries of the State; that this was the first built into and across Southeastern Oregon from the central part of the State, and that, in my knowledge, there were no settlers in said Southeastern Oregon at that early day; that the settlement and organization of the same into county governments has all taken place since.

I further certify that I am not an owner in said wagon road, nor of any of the land of the grant made to aid in the construction of the same.

J. G. GRAY.

Subscribed and sworn to before me this 1st day of March, A. D. 1886.
[SEAL.] JOEL WARE,
County Clerk,
By W. R. McCANACK,
Deputy.

T 10.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, James H. Evans, being first duly sworn, do say that I am a resident of Lakeview, Lake County, State of Oregon; that I am well acquainted with the line of route of the Oregon Central Military Road; that I passed over a portion of said road first in the year 1869; that I observed a large crew of men upon said road laboring in the construction of the same; that I passed over another portion of said road again in the year 1870. In 1872 I passed over about 250 miles of said road. In 1873 I passed over the entire length of the road from the western to the eastern terminus, and found a good mountain road the entire length of the road.

I was a United States deputy surveyor during the years above mentioned, save the years 1869 and 1870, and made surveys along the line of said road during the years 1872, 1873, 1874, and 1875, and reported the crossings of the Oregon Central military road, with the lines of survey in my field-notes, which notes were transmitted to the General Land Office.

A great deal of money was spent in the mountainous portions, viz, over the Cascade and Stein Mountains, in building bridges, grading, grubbing, &c., while over the marshes what was known as a corduroy road was built, and the road was a good wagon road.

I further depose that I am not a stockholder, nor am I otherwise interested in the grant of lands to the said Oregon Central military road, or to its assigns.

J. H. EVANS.

Subscribed and sworn to before me this 6th day of March, 1886.

[SEAL.] J. H. BLOOD,
Notary Public in and for the City and County of San Francisco, State of California.

T 11.

STATE OF OREGON,
Multnomah County, ss:

I, W. S. Ladd, being duly sworn, say on oath that I am a citizen of the State of Oregon, and have been for more than thirty years last past; that I was an original subscriber to the increased capital stock of the Oregon Central Military Road Company, a corporation duly incorporated under the laws of the State of Oregon, formed for the purpose of constructing the wagon-road from Eugene City southeasterly to the eastern boundary of the State of Oregon; that from the 23d day of May, 1871, until the date of its disincorporation, I was the president of said company; that there was paid in upon the subscriptions to the capital stock of said company the full sum of one hundred thousand dollars, the whole amount of which was expended in and applied to the construction of said wagon road, and in addition thereto I advanced to said company for the purpose aforesaid the sum of $15,833.82, and there was during the construction of said road received from the sale of lands a further sum exceeding $13,000, which was also expended in the construction thereof, making a total cost of said road exceeding $128,000.

That a portion of said road was so constructed during the time I was acting president.

That the various superintendents engaged in the construction of said wagon road were instructed to construct said road in a thorough and permanent manner, were required to report, and did at stated intervals report to the board of directors of said company as to the condition of said road as the construction of the same progressed.

That although I have not personally examined the whole length of said road, I have talked with very many persons who had so examined it, and from the reports so made and the information I have acquired, I verily believe that the instructions to the employés were honestly and faithfully carried out, and a good and substantial wagon road constructed on the line aforesaid.

That the original object of the corporation aforesaid was to open up a means of communication and transportation of freights and stock from the Willamette Valley and the eastern part of the State, and the development of that portion of the State, and not for speculative purposes, and after the completion of said wagon road, such object having been accomplished, at the request of the directors and stockholders of said company I opened negotiations in New York, London, and other places for the sale of the lands theretofore granted to said company to aid in the construction of said road.

That such negotiations were pending for more than two years without success.

That in the mean time taxes had been assessed and levied by the State of Oregon through the various counties in which such lands were situated, aggregating more than $12,000, which the company paid.

That in October, A. D. 1874, said company succeeded in negotiating a sale of all its said lands for a consideration then paid to said company of $125,000.

That in my judgment said sum, for which said lands were sold, was a fair valuation thereof, and although the amount so realized was not sufficient to repay the stockholders the amount paid in by them, such sale was unanimously ratified by the stockholders of said incorporation.

W. S. LADD.

Sworn and subscribed to before me this 25th day of February, 1886.

[SEAL.] J. E. BOYNTON,
Notary Public for Oregon.

T 12.

STATE OF OREGON,
Multnomah County, ss:

I, David P. Thompson, being first duly sworn, depose and say that I am a citizen of the State of Oregon, and have resided therein for more than thirty years last past.

That I am well acquainted with that portion of the Oregon Central military wagon-road, laid out and constructed from Springfield, in Lane County, Oregon, eastwardly to Drew's Valley, a distance of more than 200 miles. That I have not been over the remainder of said road, that is to say, eastwardly from said Drew's Valley to the eastern boundary of the State. That I extended the lines of surveys over a great portion of said road between Springfield and Drew's Valley, and have traveled over that portion of the road a number of times with wagons and pack trains.

That said road, when first constructed by the Oregon Central Military Wagon-Road Company, was a first-class road in every respect, well bridged and well constructed, with easy grades, and of good and sufficient width for a first-class wagon road.

I further say that I have no pecuniary interest either in said wagon road or the land grant pertaining thereto.

D. P. THOMPSON.

Subscribed and sworn to before me this 4th day of March, A. D. 1886.
[SEAL.] N. D. SIMON,
Notary Public for Oregon.

T 13.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, E. B. Pond, being duly sworn, say that I am a resident of California, and have been for more than thirty years last past; that I am president of the California and Oregon Land Company, a corporation; that in the year 1874 a number of gentlemen, now stockholders of said corporation, myself among the number, were approached in reference to the purchase of the lands formerly granted to the State of Oregon by act of Congress, approved July 2, 1864, and amendatory act, approved December 26, 1866, and by said State transferred to the Oregon Central Military Road Company, in the State of Oregon. An abstract of the title was furnished us, and such representations of value were made as caused us to examine into the matter, and after investigation and having the title examined by eminent legal counsel, whose advice was that the title was perfect, we decided to make the purchase, and did so purchase, paying for the same (including brokerage) $200,000.

And that we have remained in possession of the land ever since, having, during the time since said purchase, paid State, county, school, and road taxes to the amount of $29,521.60, besides the original owners (according to statement of W. S. Ladd in affidavit herewith) had paid at the time of our purchase over $12,000 as taxes.

At the time of our purchase about seven thousand acres of the grant had been sold to actual settlers on the line of the road. During our ownership lands not exceeding 640 acres have been sold for the reason of there being no particular demand, the road passing largely through a wild and generally unsettled country, and much of it not capable of being settled or cultivated. I speak from personal inspection, having in the summer of 1883 passed over the entire length of the road and examined the lands along the line. I also observed the road as to its construction, and found that evidently a large amount of money had been spent in said construction. As a matter of course the principal amount was spent on the mountains and rough portions of the country, while in the valley and level country little or none was required to be spent, and while, as might have been expected, after a lapse of fifteen years, some bridges showed signs of decay, the road as a whole was a fair mountain road, and evidently at the time of its construction was a very good one.

We have expended during our ownership over $65,000 in the care and expenses attending the grant, in addition to taxes paid and heretofore mentioned, and receiving during all that time not to exceed $5,000 as rents from the whole grant.

That we made the purchase in entire good faith, believing that our title was perfect, and have continued to believe so up to the present time.

Dated San Francisco, March 8, 1886.

E. B. POND.

Subscribed and sworn to before me this 8th day of March, 1886.
[SEAL.] LEWIS B. HARRIS,
Notary Public.

T 14.

I, M. P. Jones, of the city and county of San Francisco and State of California, a director of the California and Oregon Land Company, do depose and say, first being duly sworn, that I have read the deposition of E. B. Pond, president of the California and Oregon Land Company, successor to the Oregon Central Military Road Company, and that the statements therein contained are true and correct, with the exception of the statement of the condition of the road, of which, not having seen, I have no personal knowledge.

M. P. JONES.

SAN FRANCISCO, *March* 8, 1886.

Subscribed and sworn to before me this 8th day of March, 1886.
[SEAL.] LEWIS B. HARRIS,
Notary Public.

T 15.

STATE OF OREGON,
County of Lane, ss:

I, M. H. Harlow, being duly sworn, say I came into Oregon the spring of 1851, and have lived in Lane County since the 4th day of October of that year.

My age is now a little past seventy-five years. I do not positively remember whether my name was in the articles of incorporation of the Oregon Central Military Wagon-Road Company or not, but I think not; but I was one of the original stock holders in said company.

I had knowledge of the location and construction of said road from Eugene City to Summit Lake, on the Summit of the Cascade Mountains.

I was along the road at different times while it was being constructed for a distance of about 30 miles up the Willamette River, and in the year 1867, from the fore part of May until in October, I superintended, or rather what was called bossed, from 25 to 37 or 38 men, grading and bridging from what is called the lower end of the pine openings to near Summit Lake.

I was one of [the] first stockholders, and paid up my stock in full while I was working on the road, or shortly after, and held my stock until the company sold their lands to a California company.

There was a trail along where a part of the road was built, but no wagon-road built. I was over the route on a kind of trail in 1861. There was no road then, and I think the organization of the Oregon Central Military Wagon-Road Company was in 1863, or near that time. There was some settlements as far as Butte Disappointment, 20 miles east of Eugene City, and there was one bachelor with cattle on the Big Prairie, 45 or 50 miles up. With those exceptions there was no settlements along the line of the road that I knew of.

There was no bridging of streams done on the line of the road before the company commenced construction.

There was no grade made, while I was working on the road, less than 12 feet wide, and a great deal of them more. And the timber and brush was cleared off. I don't remember the exact width, but it was from 60 to 100 feet. I think the part of the road I was engaged on was a very expensive country to make a road over, but we built a good wagon road as far as I went. The work was carried on while I was at work with as much economy and saving for the company as could be under the circumstances. I saw no unnecessary waste; and the funds of the company were paid out for labor on the road and for provisions for the laborers and tools to work with, and the rates paid were common to the country at the time.

The citizens in our part of the country who took stock in the road did it to develop the country, and not for speculative purposes, and many of us were well satisfied to get our capital back without interest, and, in fact, was better than we expected when we took stock in the road.

I am not now an owner of said road, or in the grant made to said company. My ownership ceased when the company sold the land to the California company, and I have no interest therein.

M. H. HARLOW.

Sworn and subscribed to before me this 5th day of March, 1886.
[SEAL.] JOEL WARE,
County Clerk.

T 16.

I, R. N. Van Brunt, of the city and county of San Francisco, and State of California, being duly sworn, do depose and say that I am and have been secretary, for over seven years past, of the California and Oregon Land Company, owners of the grant to the Oregon Central Military Road Company, and that the books of said California and Oregon Land Company show expenditures for taxes on that property from the year 1875, to date, as follows, viz:

1875	$1,786 19
1876	2,848 50
1877	2,175 00
1878	3,313 70
1879	2,123 42
1880	3,078 81
1881	3,073 31
1882	2,625 72
1883	2,795 07
1884	3,201 85
1885	2,500 03
Making a total of	29,521 60

SAN FRANCISCO, *March* 8, 1886.

R. N. VAN BRUNT.

Subscribed and sworn to before me this 8th day of March, 1886.
[SEAL.] LEWIS B. HARRIS,
Notary Public.

T 17.

MIDDLE FORK PRECINCT, *March* 6, 1886.

I, A. D. Cannon, of Middle Fork Precinct, Lane County, State of Oregon, hereby certify that I have been a resident of the State of Oregon since the year 1854, and that I came to my father's at this place in the Cascade Mountains, and on the line of the Oregon Central Military Wagon-Road, during the year 1868; that my father (since dead) came here the year before, and was the second settler in said range of mountains who settled on the line of said military road from Butte Disappointment to the east side of the same and to Goose Lake Valley. I further testify that I passed over said military road immediately after it was constructed to Goose Lake Valley, and that it was a well constructed wagon road; that the timber through the mountain range was cut out for about 30 feet in width, and east of the range through the distance to Goose Lake Valley for a breadth of about 40 feet; that most of the streams for the distance over which I traveled—which was 250 miles—were bridged with good and durable bridges, and in cases where not bridged they were crossed with good ferries or durable fords; that I had knowledge of the company who built the road, and the men who had charge of the work of construction up to the time of the completion of the road to the eastern line of the State, and was informed at the time that said road was fully completed in all respects as a good wagon road, and certify that all the portions which I saw, and with which I have since been acquainted, were thoroughly constructed, and far the best mountain road in the State.

I further certify that at the time of its construction it was the first road built across the mountain range connecting Eastern and Western Oregon, except the ones on the northern and southern boundary of the State, and that said road has always been, and is still, used as a wagon road, and is one of the main lines of travel.

And further, that I have no ownership in said road, nor the grant of lands made to aid in the construction of the same, and never had.

A. D. CANNON.

In presence of—
B. J. PENGRA,
PERCIVILLE H. DENNISON.

T. 18.

STATE OF OREGON, *County of Lane, ss:*

I, James A. Walker, being first duly sworn, depose and say that I am a resident of Lane County, Oregon, and have been since the year 1858; that I am now living on the Oregon Central Military Road, a distance of 43 miles south of east from Eugene City,

and have been since the fall of 1881; that I am acquainted with the road from Eugene City easterly into Goose Lake Valley, having been engaged in the Government surveying service in that section of country two seasons, and passed over it last in company with gentlemen of the Central Pacific Railway Company and Mr. Theilson, chief engineer of the Oregon and California, and the O. S. and N. R. R. Cos. I likewise certify that I had knowledge of the construction of the road from the time of the beginning of the same to the time of its completion, and certify that most of the streams along the part of the route named were bridged; and as to those not bridged they were crossed by good ferry boats or good fords. I further certify that said road was cleared of timber all the way and the necessary grading done; that the work through the mountains had to be done at great expense on account of the nature of the grades and the dense forests of timber through which the route had to be cleared. But that portion from the Deschutes Valley on to Goose Lake Valley was far less expensive, for the reason that it is more the nature of a plain, and the forests were pine instead of fir, as in the case of the Cascade Mountains, and were quite open and generally clear of underbrush, and though the face of the country is to some extent hilly, yet the surface is generally smooth. I further affirm that at the time the road was begun there were no settlers in the country through which it was built except for the first 20 miles of the same (and that of the Sanford family in the range of mountains). I likewise affirm that the country along the route known by me, with the exceptions named, has been wholly settled where settlements have been made since the building of said road, and organized into county governments, and that much the largest portion of the lands within the grant have no present value.

I further affirm that I have not now, and never did have, any interest in said road or the grant of land made to aid in the construction of the same.

JAMES A. WALKER.

Subscribed and sworn to before me this 9th day of March, 1886.

[SEAL.] JOEL WARE,
County Clerk.

T 19.

HAZLEDELL PRECINCT, *March* 5, 1886.

I, Thomas H. McClane, of Hazledell Precinct, county of Lane, State of Oregon, hereby certify that I have been a resident of the State of Oregon since the year 1872; that I settled where I am on the line of the Oregon Central Military Wagon-Road sometime in September of that year, and have lived here continuously since that time; and further certify that I am acquainted with the Oregon Central Military Wagon-Road from Eugene City to the valley of the Deschutes River, on the eastern base of the Cascade range of mountains, which distance is about 98 miles.

I know that said road at that time was owned and controlled by the corporate company whose name it bears, and that there was no other road at the time, and is not to this day crossing the range by the way of the middle fork of the Willamette River; I further certify that most of the streams *to* and *through* the mountains were bridged with good, durable bridges, and that the exceptions were of streams crossed by ferry or by good fords; and further state that the road was graded along the route, varying from 12 to 16 feet, and cleared of brush and timber; that said bridging, clearing, and grading was difficult and expensive work; and know from Mr. Larison, Mr. Rigdon, Mr. W. B. Pengra, and others engaged in the building of the road, and Mr. Sanford, who was the only one living in the mountains when the work began, that said road, or the part thereof of which I have knowledge, was built by said road company, and never heard the fact disputed to this day by any one who had knowledge of the same.

I further certify that said road has been constantly used as a wagon road to this day; that I have no ownership in said road nor in the grant of lands made to aid in the construction of the same, and never did have.

T. H. McCLANE.

In presence of—
B. J. PENGRA and
C. H. MATHENY.

T 20.

HAZLEDELL PRECINCT, *March* 6, 1886.

I, John H. Hill, do hereby certify that I am a resident of Hazledell, Lane County, Oregon; that I am living on the line of the Oregon Central Military Wagon-Road, and have been since June, 1871; that I have been a resident of the State of Oregon for near

thirty-four years, and am fifty-four years old; the place where I live is 46 miles southeasterly from Eugene City; that when I arrived first where I reside in the mountains, there were no settlers living on or along the road so far as my knowledge goes from Butte Disappointment east, except Mr. Cannon and family, and the Sanford family, who lived near where I took up lands; I further certify that said Oregon Military Road was built and completed before my arrival here, and that I moved into the mountains over said road; that I have traveled over said road for a distance for 115 miles only; that the company who built the road was in existence when I arrived here, and that I was employed by them one season, and had charge of keeping the road in repair in the mountains; I know that said road was built by said road company, and constructed at a heavy expense for the reason of the extensive grades, the great number of bridges built, and the extensive clearing which was done in the mountains, and beyond so far as I have been on the road.

I further certify that said road is still used as a wagon road; that it is the only one constructed through the mountains in this vicinity, and according to my recollection was the first built through the mountains from Central Oregon.

I further certify that I have no ownership in said road, nor the grant of lands made to aid in the construction of the same, and never did have.

JOHN H. HILL.

Subscribed in presence—
C. H. MATHENY.
B. J. PENGRA.

T 21.

HAZLEDELL, *March* 6, 1882.

I, J. W. Hill, hereby certify that I am a resident of Hazledell, Lane County, State of Oregon; that I am living on the Oregon Central Military Wagon-Road, and that my residence began here during the summer of 1869, at which time I was fourteen years old; I further certify that I have traveled over the road eastward to a place known as "Well Springs," distant about 134 miles from Eugene City; that said road was well built as a wagon road, and at heavy expense on account of the heavy grades which had to be made, the large number of bridges built, and dense forests of timber through which the road had to be cleared; and that said road was graded for a width of 16 feet, except in cases of deep cuts, where it was graded from 12 to 16 feet in width, and the roadway cleared of timber from 30 to 40 feet in width; I further certify that my father, John Hill, was employed, to my knowledge, one season by the road company viz, the Oregon Central Military Road Company, in the general repair of said road several years after it was built; and that Mr. George W. Larison was in years following employed in making said repairs.

I further certify that said road is still used as a wagon road, and is the only road passing the mountains at this place, and the first built across the range in Central Oregon.

I further certify that I have no ownership in said road, nor the lands belonging to the grant made to aid in the construction of the same, and never had.

J. W. HILL.

In presence of—
B. J. PENGRA and
MARY E. MCCLANE.

I, John Blakely, of Middle Fork precinct, Lane County, State of Oregon, hereby certify that I have been a resident of Lane County, Oregon, since the year 1863; that I am near fifty-six years old; that I am living now, and have been for nearly fourteen years, on the line of the Oregon Central Military Wagon-Road, and in the Cascade mountains, at a point 32 miles south of east from Eugene City; that at the time the construction of the road began I was living in Pleasant Hill precinct near the line of the road, and saw Mr. George W. Larison at different times when engaged with his working party in the construction of the road from Eugene City to Butte Disappointment, a distance of 20 miles, and I know that all the small streams along that distance were bridged by said working party, except at the crossing of Coast Fork and the Middle Fork of the Willamette River.

I likewise certify that I have been over said line of road since settling upon the same where I now live to a point east of the mountains known as Crescent Lake, a distance of about 88 miles, over which distance the line of the road had been graded and cleared all the way, and most of the streams bridged.

I further certify that at the time this road was built there was no constructed wagon-road across the range, but the one near the northern and one at the southern boundary of the State, and likewise certify that said, road so far as I am acquainted

with the same, has been and is still in use as a wagon road, and is one of the principal roads traveled to this day through the mountains from Western to Eastern Oregon.

I further certify that I never had any ownership in said road, nor in the grant of lands made to aid in the construction of the same.

JOHN BLAKELY.

In presence of—
B. J. PENGRA and
FRANK S. BLAKELY.

T 22.

I, Frank S. Warner, of Lane County, State of Oregon, hereby certify that I am a resident of Lane County, of said State, and have been since my birth; that I am twenty-six years old; that I live in Hazledell precinct, on the line of the Oregon Central Military Wagon-Road, 45 miles southeasterly from Eugene City; that I have been acquainted with said road from the time of its construction up to the present time, and know that it was the first, and that no other road has to this day been constructed near the line of said road. I certify that I knew of the employment of large companies of men in the building of said road; I saw them at times when in construction of the same for a period of about six years, and know that the working companies were under the management, at different times, of George W. Larison, Benjamin Simpson, W. B. Pengra, Malon Harlow, and W. H. Odell, and under the general management of B. J. Pengra. I have no knowledge of any settlers living on the line of said road, from Butte Disappointment east, but the family of Sanfords living in these mountains.

I further certify that said road, when built, was a good mountain road, and built at great expense through the range of mountains in which I live, for the reason of the nature of the grades, the great number of bridges built, and dense forests through which the road had to pass. And further certify that it has always been in use since the time of its construction, and is still so used, and is, in fact, all the road we have for a long distance to the east and west. I further certify that I have no ownership in said road, nor in the grant made to aid in the construction of the same, and never had.

FRANK S. WARNER.

In presence of—
B. J. PENGRA.

T 23.

STATE OF OREGON, *County of Lane, ss:*

I, Stephen Rigdon, being duly sworn, say that I am a resident of Lane County, Oregon; in the summer season I reside at a point 71 miles east of Eugene City on the Oregon Central Military Wagon-Road; I have resided in said county thirty-two years; I have been well acquainted with the Oregon Central Military Wagon-Road from the time of the survey and location of the line until the present time; I was employed under the superintendency of B. J. Bengra, first in the survey and location of said road from Eugene City easterly, in the Cascade range of mountains, 46½ miles, in May and June, 1864; afterward, in 1865, I was employed as assistant superintendent of construction of the road during the absence of B. J. Pengra, in the survey and location of the route in the country east of the Cascade range of mountains; this was during the time of the construction of the first 20 miles of the road by the working party organized under George W. Larrison, and the work being done by Benjamin Simpson, under his contract that year; there was employed in the two working companies an average of forty to forty-five men during the season; that during that season the road was completed a distance of 58 miles, and the work of construction continued for a period of four to five years thereafter, and there was employed during said time companies of men varying from twenty to forty in constructing said road; said road when completed over the western portion, of which I had personal knowledge, was well built for the purposes of a wagon road, and the grades of said road varied from 12 to 16 feet, and the timber cleared from the line of said road for a breadth of 30 feet in the mountains and 40 feet in the open pine timber beyond or east of the mountains, with a large majority of the streams over which the road passed were bridged with durable bridges, and where not bridged were crossed by ferries and good fords.

I have been well acquainted with said road from the commencement of its construction to the present date, and often engaged in repairing the same; that said

road has been continuously used as a wagon-road to the present time. I was one of the party who accompanied Governor Gibbs at the time of the examination of the first division of the road, who expressed himself often as being thoroughly well satisfied with the construction of the same.

I am not an owner in the road or grant of lands to said road company, and am in no way interested in either, except as the road benefits the country.

S. RIGDON.

Sworn and subscribed to before me this 9th day of March, 1886.

[SEAL] JOEL WARE,
County Clerk.

T 24.

STATE OF OREGON, *County of Wasco, ss:*

I, George W. Larrison, being first duly sworn, depose and say that I am a resident of Badger precinct, in Wasco County, and have been for five years; that before coming here I was a resident of Springfield, Lane County, Oregon; that I am well acquainted with the western portion of the road known as the Oregon Central Military Wagon-Road; that I worked as a foreman on said road in the construction of the same from Eugene City easterly to Butte Disappointment, and completed the same except as to the ferries across the "Coast Fork" of the Middle Fork of the Willamette River, and the ferry across the Middle Fork of said stream which were built by Abraham Patterson for said company during said time. I likewise went forward into the mountains into the midst of the work being done by Benjamin Simpson, and constructed the road by blasting through the point known as Lookout Mountain Point. This was during the season of 1865. I was again engaged in the work of construction some two or three years after the time herein specified, from Crescent Lake, about 8 miles east of the summits of the mountains, through the open pine country to Klamath marsh, and in the construction of the bridge or causeway across said waters, which was but little less than 1 mile in length, and know that the road was completed that year to the point known as Round Grove by the working party under Mr. Walton and under the general supervision of William H. Odell.

The work done under my management was well and thoroughly done for wagon-road purposes, as was the case of all other work which then and afterwards came under my observation. One evidence of this may be understood from the fact that I had my team engaged during this last season mentioned (a single span of horses) in drawing supplies to us over the entire length of the road mentioned, and they always hauled from 1,800 to 2,100 pounds of freight. I further certify that the timber of the forests through which the road passes was cut out for a width varying from 30 to 40 feet, and all grades were made from 12 to 16 feet in width, and that there was no road through this particular district nor across the Cascade Mountains in Central Oregon, from the west to the eastern part of the State, until this road was built, and that I have often passed over portions of said road and have been employed at times in keeping the same in repair since the periods of construction, and know that said road is used to this day. I further certify that I don't now and never did have any ownership in said Oregon Central Military Wagon-Road.

G. W. LARRISON.

Subscribed and sworn to before me, a notary public in and for Wasco County, Oregon, February 27, 1886.

[SEAL.] C. A. WILLIAMS,
Notary Public, Wasco County, Oregon.

U.

Abstract of the memorial of Alexandre Weill in re the Willamette Valley and Cascade Mountain Wagon-Road Company.

This memorial, in substance, sets forth:

(1) The legislation by Congress granting the land in question to the State of Oregon.

(2) The act of the legislative assembly of Oregon granting the lands to the Willamette Valley and Cascade Mountain Wagon-Road Company.

(3) The certificate of the Hon. N. B. Humphreys, who was deputed by the governor of Oregon to make an examination as to whether or not the road had been constructed in accordance with the requirements of the act of Congress, that it was so constructed.

(4) The certificate of the governor of Oregon of the completion of sections of the road from time to time, and also a final certificate that the road had been constructed in accordance with the act Congress. That the same had been accepted by the Government of the United States and by the State of Oregon, and that the lands granted passed to and became the absolute property of the said wagon road company, and were subject to the company's disposal.

(5) That these certificates of the governor were on file in the General Land Office.

(6) That the governor having certified as above, the said Weill purchased the said lands in good faith and for a valuable consideration, relying upon the facts above set forth, and without any knowledge whatever that there was any dispute as to the road having been constructed as required by the act of Congress, and after having had an examination made as to the state of the title by competent attorneys and their advice that the title was perfect.

(7) That no question was made as to the integrity of this construction until about eight or nine years after the governor had made his certificates as aforesaid, nor any question made in that regard of which he had any knowledge whatever, until more than a year after he had made the purchase and received the deed for said lands. That in 1881 he, for the first time, learned through a communication which was sent to the Speaker of the House of Representatives by the Secretary of the Interior that any such question was made.

(8) That the matter having been thus brought to his attention for the first time, although protesting that his vested rights could not be interfered with by reason of any alleged non-construction, he procured the affidavits of nineteen persons who had knowledge of the facts as to the construction of the road, to the effect that said road was constructed as required by law.

(9) That he filed these affidavits with the Committee on Military Affairs of the House of Representatives, to which committee the said communication had been referred, and the committee reported adversely to any action of Congress which would affect his title, which report, together with the affidavits above alluded to, which are set forth therein, is No. 332, House of Representatives, Forty-sixty Congress, third session.

Affidavits referred to filed as part of the memorial of Alexander Weill.

U 1.

STATE OF OREGON, *County of Linn, ss:*

I, Jason Wheeler, being first duly sworn, on oath say that I now am, and for the thirty-three years immediately last past have been, a resident of Linn County, State of Oregon. I further say that I am fully and thoroughly acquainted with the Willamette Valley and Cascade Mountain Military Wagon Road, hereinafter called the "wagon-road." I further say that the wagon road is 448 miles long. I was in charge of working parties on the wagon road from the year 1864 to 1871, when the road was built, and I had myself a contract for the construction of 2 miles in the mountains, for which contract I received from the company the sum of $1,350. The road commences from the city of Albany, in Linn County, State of Oregon, and runs through Baker, Wasco, Linn, Union, and Grant Counties, to the eastern boundary to the State of Oregon, on Snake River, and within 18 miles of Boise City, Idaho Territory. After leaving Albany the road traverses through the Willamette Valley for a distance of 32 miles till it reaches a valley called "Sweet Home" Valley, among the foot-hills of the Cascade Mountains. Over this section of the country the work of the company was confined to the enlarging, improving, and widening the previously existing county road. One bridge was built at a cost of about $500. In the next section the road crosses the Cascade Mountains, the distance from Sweet Home Valley to Cache Creek being 51 miles. The summit crossed represents a height of 3,400 feet, or thereabouts, above the level of the sea. The road attains this height by a succession of grades, following generally the course of the Santiam River.

The country is exceedingly rocky, and covered with heavy timber; the construction of these upward grades being a matter of grave difficulty and very great cost. A number of large rock and rocky cliffs had to be removed by blasting or cut through, and a great amount of fallen timber had to be got rid of, and many living trees of from 5 to 7 feet in diameter had to be grubbed up in order to provide space for the road-bed. Amongst others, a 7-mile hill had to be surmounted by a succession of grades running nearly the entire length, and Sand Mountain, for a distance of nearly 5 miles, had also to be graded. Before reaching Sand Mountain, 2 miles of lava bed had to be crossed, involving an enormous amount of expensive work in filling up deep cavities and breaking down projections with sledge hammers. After surmounting

Sand Mountain, the eastward downward descent was reached, passing through 20 miles of pine-timber country more or less thick. To construct the road through this country numberless pine trees had to be grubbed up by the roots. In reaching this distance not less than forty-six bridges, great and small, were constructed by the company. Many of these bridges still remain standing, but others were destroyed by flood or fire, and fords were substituted as being more convenient and less liable to accident. The next section of road is 15 miles in length, and finishes at Camp Polk, Wasco County, Oregon. This section involved less labor, as the country became more open in character, and required only about four bridges. The next section of 18 miles extends to the Deschutes River, the first 8 miles passing through a very rocky country. The Deschutes River at that point is about 300 feet wide. The bridge now across the Deschutes River has been constructed by the present owners of the road and grant at a very heavy cost. In crossing the next 13 miles, to where the road strikes Crooked River, an almost continuous lava bed has to be passed, involving a corresponding amount of labor and expense. The road then runs for 14 miles along the main stream of Crooked River till Prineville, at the mouth of Ochoco Creek, is reached. This section was over level bottom land. On leaving Prineville, the country alternates between level bottoms and rocky hills till Camp Harney, Grant County, Oregon, is reached, a distance from Prineville of about 120 miles. Only about three streams of any consequence have to be crossed.

I have thus described a distance of 293 miles. My own knowledge of the road from actual experience ceases at a point about 75 miles east of Camp Harney, and therefore 368 miles east of Albany. In these last 75 miles four streams had to be crossed by the road company, which said streams are called "Cow Creek," "Crow Creek," "Crane Creek," and "South Malheur River." All these streams during six months of the year are mere brooks, giving only sufficient water for the watering of stock. It was entirely unnecessary to build bridges across either of these streams. In this section of road the general character of the country is level and monotonous; very little grading had to be done, but here and there patches of rock were required to be removed and occasionally a little grading to be done. I further say that the object in taking the road so far south was to avoid the southern spurs of the Blue Mountains, which end on the northern boundary of the "Harney Lake Valley," and thus to attain the opening through which the Malheur River runs to the eastern boundary of the State.

I further say that before this road was built there was not a settler in the whole section of the country between Cache Creek, which is about 100 miles from Albany, and the eastern boundary of the State, a distance by the road of 318 miles, except at Camp Harney, where there was a military post. The settlers were waiting with their wagons for the removal of the last log in crossing the Cascade Mountains that they might pour into the open country beyond, and in less than two years from the opening of the road at least two hundred and fifty families had settled on the east of the mountains, along the line of the road entering the country by this wagon road, which was the only means of entry. This settlement related to the land as far as Upper Ochoco; from that point a settlement was very gradually effected little by little, for fear of the Indians, who were apt to resent what they then considered an intrusion into their country. It naturally followed that the travel along the road was mainly confined to that section terminating eastward at Camp Harney, and when settlement did come it was effected by cattle herders whose ranches were situated many miles apart, and who traversed the whole face of the country with their stock rather than to be confined to the line of any road. I have been informed, and fully believe, that upward of five thousand wagons have passed along the road since its opening, and I know that I have repeatedly passed along the line of this road at all seasons at which it was open for travel by reason of snow in the Cascade Mountains, and I have never failed to meet from ten to thirty loaded wagons on the distance between Sweet Home Valley and Ochoco; the loads carried by these wagons varied from 1,500 to 3,000 pounds. In traveling over the road in September and October of 1880, in company with Land Agent Prosser, in a carriage drawn by one pair of horses, we averaged about 27 miles a day. On making this trip with Prosser we repeatedly passed loaded wagons carrying loads up to 32 cwt., and Mr. Prosser questioned the drivers on many occasions, and was told by each in my hearing that they were getting along very well and had no difficulty in traveling. I further say that at no time have I experienced any difficulty or trouble in traveling the road after its completion, and have heard of no accident happening on the road, save and except of the drowning of one span of mules, which accident happened about five years ago and was owing entirely to the negligence of the driver. Mr. Prosser and myself traveled over the road in a two-seated carriage, with two horses, and returned at the end of twenty-six days, with the team none the worse. During that time we staid at Prineville the greater part of one day, and we then reached a point 338 miles east of Albany. We then returned, not from any impossibility of going farther, but mainly because the weather had turned very cold, the season being far advanced.

In crossing the Cascade Mountains Mr. Prosser commented many times on the heavy grading that had been done, and often spoke of the great quantity of timber that had been moved and grubbed. He, Mr. Prosser, said to me that the company deserved great credit for the enterprise they had shown in constructing so expensive a road to open up a connection between the Willamette Valley and the country east of the Cascade Mountains. Mr. Prosser made no objection to the road until we neared Camp Harney, which is 293 miles east of Albany. Mr. Prosser then observed that the company ought to have done more work in keeping the road up in this section. I then informed Mr. Prosser that this was the section of the road over which large droves of from 8,000 to 10,000 cattle were driven over at intervals all the time, and that this fact injured the road a great deal by crowding it with stones; and I also informed him that this same section of road was built with our rifles continually by us for fear of Indians. We, Mr. Prosser and myself, returned by the road to Albany at his desire, instead of turning north to the Dalles either from Canyon City, Grant County, Oregon, or Prineville. When Mr. Prosser had seen the road he said to me that those men who had written on to Washington to say that there was no road had lied; and also that he knew that the complaints had been made by squatters who had settled down without any title on the road company's sections, and were attacking the company on the chance of so getting a title to the land.

I further say that the road is used for heavy wagon-loads all the time. The stockmen along the eastern section, all the way from Harney and beyond, use the road in coming to Prineville for supplies, and that is 140 miles east of Albany, and it is a common thing to see them starting out on the road eastwards from Prineville with from 1,500 to 2,000 pounds on their wagons. I further say that I have been informed that Mr. Prosser has stated that the grading on the road did not cost $100, and has also stated that $5 a mile would cover the entire cost of location and construction for the entire distance east of the Cascade Mountains. Such statements are, to my knowledge, absolutely and unqualifiedly false. I further say that it is equally and notoriously false to say that hardly a trace of the road can be found except 60 miles at the western end. I further say that I know that all assertions made that much or any of this road was built by counties and not by the road company is absolutely false and untrue; and I further say that the entire road was made and opened by the company alone and without assistance of any nature either from counties, except as above stated, or any one else. I further say that it is equally false and untrue that the greater or any portion of the line of road has been from the beginning, or ever has been, the merest pretense or any pretense, without bridges or grading, and practically unfit for use except under the most favorable circumstances. I further say, as hereinbefore stated, that the road is traveled at all seasons, and that all necessary bridges have been built and all necessary grading done; and I further say that not only is the road in constant use by the public, but the United States mail-carriers have used and still use different portions of it for many miles in the regular conveyance of the United States mails. I further say that I am informed and believe, and a petition has been signed by eighty-nine settlers on the road, asking for the establishment of a regular mail line over this wagon road from Albany to Camp Harney; and I further say that I am informed and believe that said petition has been regularly forwarded to the authorities at Washington, D. C. I further say that I am not now a stockholder in said company, nor am I in any way interested in its property, having disposed of all interest which I had in the company or its affairs in the year 1872.

JASON WHEELER.

Subscribed and sworn to before me this 26th day of January, A. D. 1881.

[SEAL.] J. K. WEATHERFORD,

Notary Public for Linn County, State of Oregon.

U 2.

STATE OF OREGON, *County of Marion, ss:*

I, M. B. Humphrey, being first duly sworn, on oath say that I am and for the fourteen years immediately last past have been a resident of Albany, Linn County, Oregon. I further say that on the 13th day of April, A. D. 1871, I was appointed by the governor of the State of Oregon to act in his behalf to view and examine the work done on the line of the Willamette Valley and Cascade Mountain military and wagon-road in the State of Oregon, and make report to the office of the governor of the State of Oregon of the same, and particularly with reference to all requirements of the act of Congress and of the legislature of the State of Oregon, touching the construction of said road. I further say that on the 18th day of April, 1871, in compliance with said appointment I entered upon the discharge of my duty. I completed the examination of said road

on the 28th day of May, 1871, by passing over and along the entire line thereof and carefully examining the work done on said road. I began at a point on said road 368 miles east of Albany, at a stake on the line of said road, and ended at Washoe Ferry, on Snake River, which is the eastern boundary of the State of Oregon; that said portion so examined by me is a distance of 80 miles and $58\frac{35}{100}$ chains from the place of beginning. And I hereby further say that the said wagon-road is constructed according to the requirements of the act of Congress and of the legislature of the State of Oregon, with such width, graduation, and bridges as to permit of its regular use as a wagon-road. I further say that after starting from Albany I continually met and overtook travelers on the road, and many of whom were drawing with them heavily loaded wagons. I further say that in all I traveled on said road 448 miles and $58\frac{35}{100}$ chains east of Albany. I further say that the said road is of great and general benefit to the Willamette Valley, the country east of the Cascade Mountains, and to the State of Oregon generally, and the said road is a good mountain wagon road, and of my own knowledge is being continually used as a wagon road. I further say that all necessary bridges were constructed on said road. I further say that I am not now nor have I ever been a stockholder in said company, nor have I now or ever have I had any interest of any nature in its property or effects.

M. B. HUMPHREY.

Subscribed and sworn to before me this the 26th day of January, A. D. 1881.

[SEAL.] SETH R. HAMMER.

Notary Public for Oregon.

U 3.

STATE OF OREGON, *County of Linn, ss:*

I, John A. Crawford, being first duly sworn, on oath say I am, and for the past twenty-nine years have been, a resident of the city of Albany, Linn County, State of Oregon. I further say that I am now the president of the Willamette Valley and Cascade of the company. I am one of the parties who purchased in the year 1871. The original Mountain Military Wagon-Road Company. I am not one of the original stockholders articles of incorporation were filed by the company in the year 1864, on the 20th day of May, and I know that a large amount of work was done by the company on the road before the act of Congress granting the lands was passed in 1866. The object of the company was to open up communication between the Willamette Valley and the country east of the Cascade Mountains. I further say that I am acquainted with Land Agent Prosser. Mr. Prosser was introduced to me at Albany, Linn County, Oregon, about the 21st of September, 1880, and he at that time told me he was a Government official, deputed to go over and examine the company's road, owing to the fact that complaints had been made at the Land Office that there was no road, and that it was a fraud on the Government. I asked Mr. Prosser for, and he then showed me, his instructions, which included a letter from a Mr. Barnes, making those statements. He, Mr. Prosser, proposed to buy or hire an Indian pony, stating that there was no road, and he appeared to be greatly amazed to find that a two-horse carriage could go over the road. I then introduced Prosser to Mr. Jason Wheeler, of Albany, and arranged for him to have a two-horse carriage, and Mr. Prosser started with Mr. Wheeler.

Before they started Mr. Prosser had a conversation in my presence with Dr. W. F. Alexander, of Albany, who told him that he had weighed on a Fairbanks scale six wagon loads going over the mountains, and that with a single team they took 1,800 and 2,500 pounds, and double teams from 2,500 to 3,500 pounds without any trouble. Mr. Prosser, I am informed, was likewise told by Mr. W. K. Price, of Albany, that his team was but a small one, but that he took 1,800 pounds over the mountains with ease. Messrs. Prosser and Wheeler returned from their trip over the road on the 19th of October, 1880, and I saw Mr. Prosser at his hotel in Albany. He then told me that he was very agreeably disappointed, and further said that the road was even better than had been represented by me to him, and also said that the man that put in the report to the Land Office, put it in with some design, and also that the report "was a lie from the word go." He also said to me at that time that the road was the best mountain road he had traveled in this or any country, and also remarked that it must have cost the company an immense amount of money and labor to make such a road through such a rough country. He also said that it would be better for one or two more bridges. In answer to this last remark I told Mr. Prosser that they had been put at the places alluded to by him, but that mountain fires had burned them out, and stopped travel, and that it had been found better for all who traveled the road to grade down to fords instead of rebuilding the bridges, and that it was also better to clear the streams for passage. Mr. Prosser also remarked that between Ochoco and Camp Harney, that is, a distance of from 150 to 293 miles from Albany, where the water in places had washed the dirt from among the rocks it had left it a

little rough for wagons, and that it needed some repairs. In answer to this I remarked that I did not think the company was obliged to keep it in repair beyond the part where they took tolls, but that I knew that all the company had received for tolls and more had always been expended on the road. Mr. Prosser also told me that he had seen and talked with many settlers along the road, and that he considered it the greatest enterprise he had seen in all this west country to open up that eastern country to the Willamette Valley.

I further say that, except as above stated, Mr. Prosser made no complaint about the road, but, on the contrary, he expressed to me his admiration of and satisfaction with it. I further say that I traveled the road first in 1871, in company with a party from Albany out to Camp Harney, a distance of 293 miles. The road then was in good fix, and in such a good condition that we were all surprised. We had a four-horse team and a two-horse carriage. We traveled along from 20 to 30 miles a day, and we had no difficulty whatever. We found a good road all the way—bridges wherever necessary—and we had no difficulty in crossing any streams that were not bridged; and, in fact, in the eastern section bridges were not necessary or desirable, for the streams are all small and shallow, and if bridges were there a traveler would take the ford in preference, that he might water his stock. I again went over the road in the fall of 1878 for a distance of about 150 miles east of Albany, and I found the road in a great deal better condition than it was in 1871, which was owing to the great amount of labor bestowed thereon by the company, and, with a two-horse team, drawing a hack with three persons and their luggage, we averaged about from 35 to 40 miles a day.

I further say that I have read the affidavit of Jason Wheeler this day made, and that all facts therein stated concerning the said road, the construction thereof, the bridges, and all matters concerning same are true, so far as that part of the road over which I have traveled is concerned, and by him in said affidavit mentioned. I further say that certain parts of the road between Cache Creek and Ochoco have been diverted by persons who have settled without title on the lands of the company, which diversion was effected without the knowledge or consent of the company. These diversions were by these settlers fencing across the road, thereby compelling the traveler to pass along the hill-sides outside of the inclosures. The Mr. Barnes whose letter Mr. Prosser exhibited to me is one of those squatters on the company's land, and one who has diverted the road. I further say that since the year 1872 upwards of $27,000 has been expended by the present owners of the road in making repairs and maintaining the road from Albany to the Deschutes River, which only covers a distance of about 110 miles from Albany. I further say that one bridge alone which had been put across the Deschute River has cost the company over $2,500. This amount thus expended far exceeded the amount received by the company for all tolls over the road.

JOHN A. CRAWFORD.

Subscribed and sworn to before me this 26th day of January, A. D. 1881.
[SEAL.] GEO. E. CHAMBERLAIN,
Notary Public for Oregon.

U 4.

STATE OF OREGON, *County of Linn, ss:*

I, W. F. Alexander, being duly sworn, on oath say that I am, and for the past twenty years have been, a resident of Linn County, Oregon. I further say that during the whole of said time I have been engaged in the practice of medicine in said county, and have also been engaged in the business of stock-raising. I further say that I have traveled the Willamette Valley and Cascade Mountain Military Wagon-Road, hereinafter called the "wagon-road," at all seasons of the year, except when the Cascade Mountains were rendered impassable by snow. My knowledge of the road is confined to a distance of 156 miles east of Albany, Oreg. And I further say that I have read the affidavit of Jason Wheeler, this day made, in respect to said road, and I know all facts therein stated as to said road for the distance of 156 miles east of Albany to be true in every particular. I further say that during the years 1877 and 1878 I resided at a place along the line of said road, called the Hensley Ranch, the same being about 53 miles east of Albany. I kept a feeding stand at that point, providing hay and oats for the use of travelers who encamped on my camping ground there. The condition of the road was frequently discussed by the travelers in my presence and hearing, and the general verdict was that the road was a good mountain wagon road, and would compare favorably with valley roads, and, further, that the company kept the road in good repair. And I further say that of my own knowledge I know that this was the right verdict.

I further say that at all times, while the road was traveled, that the company kept

a sufficient force of men along the line of the road for the purpose of making necessary repairs and attending to bridges. In respect to loads of freight hauled across this road, I know of the case of Mr. Hosskins, formerly of Linn County, Oregon, who traveled the road, and over the mountains, which is the worst part of the road, with a load of 3,500 pounds to a four-horse wagon, the load having been weighed at my place. Also the case of Mr. Douthitt, late of Linn County, Oregon, who hauled a wagon loaded, weighing 2,800 pounds, over the road in the month of November, 1875, from about 12 miles southeast of Lebanon, Linn County, Oregon, to the Ochoco Valley, about 16 miles above Prineville, Wasco County, Oregon; also of the case of Waine Claypool, who annually hauled a load of about 3,000 pounds from Albany to about 10 miles east of Prineville; also of Mr. John Powell, who makes similar trips with as heavy loads. I am not now a stockholder in said wagon-road company, nor have I any interest of any nature in the property or effects of the company.

I further state that I am acquainted with Land Agent Prosser, and that in September of last year, in Albany, Oreg., I had a conversation with him in the presence of John A. Crawford, during which conversation I informed Mr. Prosser of the fact of my having weighed the wagon and loads going over the mountains, as in this affidavit hereinbefore particularly mentioned.

W. F. ALEXANDER, M. D.

Subscribed and sworn to before me this 26th day of January, 1881.
[SEAL.] GEO. E. CHAMBERLAIN,
Notary Public for Oregon.

U 5.

STATE OF OREGON, *County of Linn, ss:*

I, W. K. Price, being first duly sworn, on oath say I am, and for the thirty years immediately last past have been, a resident of Linn County, State of Oregon. I further say that I am fully and thoroughly acquainted with the "Willamette Valley and Cascade Mountain Military Wagon-Road," hereinafter called the "wagon-road," for a distance of 250 miles east of Albany, and about 100 east of Prineville, Wasco County, Oregon. I further say that for the ten years immediately last past, at all seasons, when permitted by the snow on the Cascade Mountains, including early spring and late in autumn, I have traveled the said wagon road, carrying with me on wagons loads weighing as much as 3,000 pounds; that at no time in traveling of said wagon road have I experienced any difficulty or trouble, and at all times I have met from ten to thirty heavily loaded teams and wagons traveling on said road; that at no time have I heard of any one experiencing any trouble or difficulty in traveling on the road. I have found all streams spanned by bridges wherever the same was necessary; and I further say that at all streams on the road where there are no bridges the company have prepared good, convenient, and safe fords, which I consider preferable to bridges as regards the section of country east of Prineville.

I have read the affidavit of Jason Wheeler, made this day, and I hereby further say that all facts by him stated as to the country over which the road is built, so far as I have traveled, are true in every particular. I further say that I have traveled the said road with my family from Albany to Prineville, a distance of 140 miles, in four days, and have made five or six trips in that time. The last 45 miles of this trip from Camp Polk to Prineville I drive in one day, as is commonly done by others. I further say that in several portions of the road the settlers have fenced up the company's road and have made diversions therefrom without the knowledge or consent of the company so far as I have heard, and that by so doing they have thrown out and lengthened the road. I further say that the construction of this road has been of great and general benefit both to the Willamette Valley and all counties through which the road passes, as well as to the State of Oregon at large. I further say that I am not, nor have I ever been, a stockholder in said company, nor have I now, or have I ever had, any interest of any nature in the company's property or its effects. I further say that I have spoken to many persons concerning said wagon road and the company, and at no time have I heard any complaints against either the company or the road, save and except from squatters on the company's land.

W. K. PRICE.

Subscribed and sworn to before me this 25th day of January, A. D. 1881.
[SEAL.] J. K. WEATHERFORD,
Notary Public for Linn County, State of Oregon.

U 6.

STATE, CITY, AND COUNTY OF NEW YORK, *ss:*

Before the undersigned, a notary public of the State, county, and city aforesaid, personally came Alexandre Weill, of said city, and on solemn oath says that he is the same person named as grantee in the deeds below named to Alexandre Weill; that for about twenty-five years next before the 15th of April last he resided in San Francisco, Cal., where he was engaged in business, and that affiant now resides in the city of New York; that after the grant made to the State of Oregon by the act of Congress of 5th of July, 1866, found on page 89 of the fourteenth volume of the Statutes at Large of the United States, and after the enactment by the legislature of Oregon of the act of 24th October, 1866, purporting to carry out the provisions of said act of Congress, granting said lands to "The Willamette and Cascade Mountain Wagon-Road Company," and after the governor of Oregon had made and delivered, pursuant to the requirements of said act of Congress, the several certificates of the dates respectively of April 11, 1868, September 11, 1870, January 9, 1871, and June 24, 1871, certifying and taken together, establishing that all and every part of the wagon road provided for by said acts above named had been fully completed according to said laws, to wit, on the 19th day of August, 1871, the said company sold the lands granted to said State and by said State to said company to H. K. W. Clarke for the consideration, as said Clarke informed affiant, of $160,628.89, and on the same day, by a deed duly recorded, as provided by law, conveyed said land to said Clarke.

Affiant further says that affiant and one T. Edgenton Hogg purchased interests in said lands from said Clarke, and on the 1st day of September, 1871, the said Clarke conveyed the said lands to one David Cahn in trust for said Clarke, Hogg, and this affiant; and subsequently, to wit, on the 18th day of February, 1879, the said Hogg sold and conveyed to affiant all the interest he held in said lands, for the consideration of $25,000; and on the 9th day of April, 1879, the widow and heir of the said Clarke, to whom the said interest of said Clarke had then passed by descent, conveyed to affiant the said interest of said Clarke in said lands, of whom affiant had purchased said interest for the consideration of $10,000 in cash, and other considerations, all of which deeds were duly recorded, and by virtue thereof affiant became the full and sole owner of said lands; the entire consideration paid by affiant for said lands and property, covered by said deed, including lawful interest thereon, 6 per cent., up to this date amounts, as near as affiant can now state, to the sum of $375,000.

Affiant further says that, before he made either of said purchases of interest in said lands, affiant caused the titles thereof to be examined by his attorneys, affiant never having up to this date been in the State of Oregon, and received the information from his said attorneys that the title was good, and that the governor of the said State of Oregon had duly certified to the Secretary of the Interior that every part of said road had been fully completed according to law, and affiant purchased each and all of said interests in absolute good faith, and upon the faith of said certificates and other information showing that said road was complete and said title was good.

Affiant further says that at no time prior to the making by W. F. Prosser the report alleging that said road was not completed as required by law did affiant ever know or hear of, or have any reason to suspect, that said road was not fully completed, or that any one claimed that said road was not fully completed, or that either of said certificates were not fully true, or that there was any defect in said title.

A. WEILL.

Subscribed and sworn to before me this 14th day of February, 1881.

[SEAL.] EDWIN F. COREY,
Notary Public.

U 7.

Affidavit of M. V. Brown.

STATE OF OREGON, *County of Linn, ss:*

I, M. V. Brown, being first duly sworn on oath, say that I am, and for the past fifteen years have been, a resident of Albany, Linn County, Oregon, and for the whole of said time I have published a newspaper called the State Rights Democrat, in Albany aforesaid. I further say that I am acquainted with and have traveled the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of at least 200 miles east of Albany. I traveled this distance in the year 1878, in command of State troops, during the Indian outbreak in Eastern Oregon. My command numbered seventy-five men; we had with us two heavily loaded transportation wagons, one drawn by 4-mule team and one by a single span of mules. I was at that time and am

now brigadier-general of the Oregon State militia, and the said wagons were loaded by my then quartermaster, W. K. Price, of Albany. We had no trouble whatever in traveling said road either with said wagons or on foot, and during the march we traveled as much as 35 miles a day over the mountain road, the teams at all times keeping up with the command. We, during our march, met a great number of loaded wagons traveling on this road, driven by the settlers in the country. These wagons contained at times all the families and household effects of the settlers, who were escaping from the Indians, and this road was the only means of exit and escape which was open to them. The road is an excellent one, and is the best mountain road I have traveled in the State, having traveled others.

I have traveled the road over the Cascade Mountains in wagons, buggies, and hacks and am fully acquainted with its character and its facility for traveling, and have never experienced any trouble whatever in traveling the road or any part thereof. I always found the road in good condition, and all necessary bridges built, and proper and convenient fords graded. I have never heard of any accident on the road. I further say that the traveling public of this country always speak highly of this road, and it is generally regarded as a good and great benefit to the country.

I further say that said road is of great and general benefit to the Willamette Valley, to Eastern Oregon, and to this State generally.

I further say that I have never held any stock in said company, nor have I ever had any interest in its property, nor have I ever been in the employ of said company.

M. V. BROWN.

Subscribed and sworn to before me this the 7th day of February, A. D. 1881.

[SEAL.] CHAS. H. HEWITT,
Notary Public.

U 8.

Affidavit of J. J. Finlayson.

STATE OF OREGON, *County of Linn:*

I, J. J. Finlayson, being first duly sworn, on oath say I am, and for the thirty years last past have been, a resident of Linn County, State of Oregon. I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for the entire distance from Albany, Linn County, State of Oregon, to the eastern boundary of the said State. I have been traveling said road as often as two or three times every year for the last ten years, traveling at times only part of the way. I have often met travelers on the road with wagons loaded with loads weighing all the way from 1,000 to 3,500 pounds, and I know that at any time during the summer a team of four horses can easily haul a load of 3,500 pounds over the mountainous part of the road, which is the most difficult part of the road. I further say that I have hauled over Seven-Mile Mountain, which is the highest peak crossed, and is 7 miles high,* a load of five passengers and their baggage and camping utensils and two or three weeks' provisions in two hours and thirty minutes, and only stopped twice, which was to water my horses. I further say that at the time just alluded to I counted seven wagons that passed me on the mountain going down. Each wagon was coming from Ochoco, Wasco County, Oregon, and each was loaded with a heavy load of wood. I spoke to some of the drivers, and they informed me that they had had no trouble whatever in traveling. I have traveled said road for the whole distance of 448 miles, and experienced no trouble whatever traveling. I continually met loaded teams and wagons, and always heard them speak in high terms of the road. I further say that all along the line of the road I found all necessary bridges built and all necessary fords made. I have often seen the company's men employed in removing large rocks from fords which had fallen in during the winter, and also in cleaning out the road where there had been a slide, and in disposing of and carrying away timber that had fallen across the road. I have always found the road open and in good condition, and always have met plenty of men working on the road.

The road is built through a very mountainous country for about 125 miles, having here and there lava beds. The amount of grading done alone must have cost the company an immense amount of money. The road was cut through several dense forests, and an immense amount of grubbing had to be done. After passing through the first 125 miles, the road is through a rolling, hilly country, through which I have always passed without trouble, and have always found the road in good condition, and have traveled through that portion of the road with a wagon-load of 1,000 pounds, with two horses, at the rate of 40 miles a day.

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* A distance of 7 miles to reach the top.

I further say that when I went through on this road to the eastern boundary of the State, I found there all the original stakes driven by the company on the line of the road. After leaving Camp Harney and going eastward, the country is very thinly settled, and for miles there is no settlement whatever.

I further say I have read Colonel Prosser's communications in the Oregonian, and also what is said to be his report; and I further say that any assertion made that there is no road is unqualifiedly false. I further say that what Colonel Prosser says in respect to bridges on the line of road is not true.

I also say that I regard it as a good thing that bridges are not built across the places where fords are constructed, as all travelers would take the ford in preference to the bridge. And I again say that all necessary and convenient bridges have been built.

The road, I further say, is a very good mountain wagon road, and I regard it, and it is generally regarded by all, as a great benefit to the Willamette Valley, to Eastern Oregon, and to the whole State. I further say that I have traveled nearly every mountain road in this State, and I say that the Willamette Valley and Cascade Mountain Military Wagon-Road is the best road I traveled in the State.

I further say that I have never heard of or seen any accident on this road.

I further say that I am not, nor have I ever been, a stockholder in said company, nor have I ever had or have I now any interest in its property, nor have I ever been in the employ of said company.

I further say that I know of thousands of cattle and sheep being driven across this road, and that if this road had not been built there would have been no means of driving the said cattle or sheep either to or from Eastern Oregon.

I further say that I know that no person could have written or spoken of the road as Colonel Prosser has, after having traveled it, without having a calculation to injure the company, as what I have read in respect to the road, written by Prosser, is far from being true.

J. J. FINLAYSON.

Subscribed and sworn to before me this 8th February, A. D. 1881. Witness my hand and notarial seal.

[SEAL.]

J. W. BALDWIN,
Notary Public for Oregon.

U 9.

Affidavit of Charles Barnes.

STATE OF OREGON, *County of Linn, ss:*

I, Charles Barnes, being first duly sworn, on oath say that I am, and for the past twenty-eight years have been, a resident of Linn County, Oregon. I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of about 200 miles east of Albany, Linn County, Oregon. I further say that I traveled said road in the year 1878 for the whole of said distance, and that I had with me three wagons, one drawn by a four-mule team, and two by a single span. I further say that I carried as a load in one wagon between twenty-six and twenty-eight hundred pounds, and in another about twenty-one hundred pounds.

I further say that I had no difficulty whatever in traveling said road or any part thereof. I further say that said road is a good mountain wagon-road. I further say that when I left Albany I expected to be obliged to double teams in order to cross the mountains, but owing to the good grading done on the road, it was unnecessary, and I crossed without any difficulty whatever. I further say that I found all necessary bridges built and all proper and convenient fords made.

I further say that I made the said distance in four days and one-half.

CHARLES BARNES.

Subscribed and sworn to before me this 8th day of February, A. D. 1881.
Witness my hand and notarial seal.

[SEAL.]

J. W. BALDWIN,
Notary Public for Oregon.

U 10.

Affidavit of J. H. Foster.

STATE OF OREGON, *County of Linn, ss:*

I, J. H. Foster, being first duly sworn, on oath say that I am, and for the past twenty-nine years have been, a resident of Albany, Linn County, Oregon. I further say that in the year 1866 I was the president of the Willamette Valley and Cascade

Mountain Military Wagon-Road Company. I further say that during said time the said road was being constructed, and that during the said year 1866 I traveled said road for a distance of over 100 miles east of Albany to the Des Chutes River, in Wasco County, Oregon. I further say that a great amount of grading and grubbing was done by said company at an immense cost. I further say that said wagon-road at said time was a good mountain wagon road. I also say that I am informed, and I believe, that since said time a great amount of work has been done on said road, including the building of bridges, fords, &c. I further say that I traveled said road at said time with a two-horse team carrying a load weighing 1,600 pounds; that no difficulty whatever was experienced either in traveling over the mountains or crossing the streams, or in any way whatever.

I further say that said road is, in my opinion, of great benefit to the Willamette Valley, Eastern Oregon, and to the State generally.

J. H. FOSTER.

Subscribed and sworn to before me this the 5th day of February, A. D. 1881.
[SEAL.] J. W. BALDWIN,
Notary Public, Albany, Linn Co., Oregon.

U 11.

Affidavit of J. W. Gilliland.

STATE OF OREGON, *County of Multnomah, ss:*

I, John W. Gilliland, being first duly sworn, on oath say that I am, and for the past twenty-eight years have been, a resident of Sweet Home, Linn County, State of Oregon. I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road Company, and I am and have been in its employ ever since its organization. I am the keeper of the toll-gate at Sweet Home, Linn County, Oregon,, and also attend to the road for a distance of 91 miles east of Albany, Linn County, Oregon. This part of the road is through the worst part of the whole road, and consists in passing through a very heavily-timbered, rocky, and mountainous country. For the distance of 31 miles east of Sweet Home the road is almost one continual road of grading. It is necessary to keep men on the lookout on this portion of the road at all times, and beyond said distance to Fish Lake at least one-third of the road is one of grading. In building and constructing the road through this portion of the country, the company were obliged to do about 50 miles of difficult grading; also were required to do a great amount of blasting; also were obliged to cut through a number of dense forests, and to do a vast amount of grubbing, and in a distance of 2 miles I took out in one year over two hundred large stumps; and I have so worked on the road that for the whole distance in my charge there is scarcely a stump to be seen, and there is not a single stump in the road that can in any way hinder or delay travel. In the spring and fall of each year I, together with a gang of from four to eight men, travel over the portion of the road in my charge, and repair, take care of, and improve the road, constantly removing large rocks and timber that fall across the road in the winter, and always look after and clean up the grades; and sometimes as early in the year as January, I have started with a gang of men to clean up and prepare the road for travel, and I have never failed to have the road all cleaned up and ready for travel before the snow on the mountains would admit of travel. All necessary and convenient bridges are built on my portion of the road, and in some places unnecessary bridges are built, and travelers take the fords in preference.

I further say that there is not a county road in this State that runs through hills that is as good a road, or that is kept in as good repair as that portion of the mountain road over which I have control, and I further say that such is the general opinion of all travelers on this road. There has been little or no complaint to me about the road, and all the complaints that I know of having been made were trivial, and I always hastened to amend any trouble, as such were my orders from the company. The only accident that I have ever heard of happening on the road was the drowning of two mules in the Santiam River, about six years ago, and it happened through the great carelessness of the driver. The company, however, paid the owner the price of the mules, which was $300. I further say that the company have established four excellent fords on the Santiam River, which is a small stream; and I should regard a bridge across this river as superfluous, and a bridge constructed there would be burnt away nearly every year or two. I further say that the absence of a bridge on

this river in no way whatever retards travel. I further say that during the spring of last year teams and wagons passed over the road before it was entirely cleared of fallen timber, which was owing to the fact that the timber was under the snow, and that the snow did not disappear sufficient to either see or remove this fallen timber, which was buried under it. I further say that since the completion of said road myself and others have done fully as much grading on the road as was done to complete the road in the first place. I further say that I am constantly employed by the company to attend to the road, to keep it in good condition, and to open it up as early in the spring as possible, and to accomplish these purposes the company have never limited me as to expenses and the number of men to employ. I further say that one driver told me that he hauled over the road three wagon-loads of freight, weighing each 4,000 pounds. I further say that, on an average, at least nine hundred wagons pass over the road, each carrying loads weighing from 100 to 3,500 pounds—the average load carried being between 1,500 and 2,500 pounds. I further say that the amounts expended by the company in repairs, &c., on the road as a rule exceed what is taken in by them for tolls. I further say that during one year about four thousand head of cattle were driven over the road.

As a rule, I further say that I have spoken with and to almost every one traveling the road, and the general opinion is that the entire road is a first-class mountain road. I further say that in two years over 10,000 head of sheep were driven over the road; also a number of horses are yearly driven over this road to Eastern Oregon.

J. W. GILLILAND.

Subscribed and sworn to before me this the 10th day of February, A. D. 1881.
[SEAL.] CHARLES F. HYDE,
Notary Public in and for Oregon.

U 12.

Affidavit of James A. Warner.

STATE OF OREGON, *County of Linn:*

I, James A. Warner, being first duly sworn, on oath say that I am, and for the past seventeen years have been, a resident of Linn County, Oregon. I further say that I am a surveyor by profession. I further say that in the year 1864 I was employed by the Willamette Valley and Cascade Mountain Military Wagon-Road Company to survey the line over which they proposed to construct their road over the Cascade Mountains, through for a distance of 368 miles. During 1864 I surveyed the line from Albany to the Deschutes River, Wasco County, Oregon, which was through a very rough, mountainous country for a distance of 80 miles. In surveying, I found the proposed line very rocky and some lava beds, one about 1½ miles in length; also, the whole or nearly the whole line of the road for the 80 miles first surveyed was covered with heavy timber. The mountains to be crossed on the line of the road were very high and steep. There were also a number of streams to be crossed by bridging and grading of fords. Subsequent to 1864 I surveyed the rest of the proposed line to the headwaters of the Malheur River, Grant County, Oregon, which is a distance of 376 miles east of Albany. A large portion of the proposed line of road from the Deschutes River was over a rolling, hilly country, in some places rocky and some lava country to cross. I received from the company for this survey nearly $1,000, which only included my services; all other expenses were paid by the company. I do not know the amount. I have traveled over the road since its completion, from Albany for a distance of 290 miles. We had a wagon with us, and carried in the wagon a large load, which consisted of provisions, tools, and general outfit for twenty-one men, who were working on the road. I further say that the said road for said distance is a good mountain wagon road, and that all the necessary bridges were constructed, all necessary fords made, and all necessary grading done. I further say that it must have cost the company a large amount of money to remove obstructions and to build the road.

JAMES H. WARNER.

Subscribed and sworn to before me this the 7th day of February, A. D. 1881.
[SEAL.] D. R. N. BLACKBURN,
Notary Public for the State of Oregon.

U 13.

Affidavit of C. H. Stewart.

STATE OF OREGON, *County of Linn, ss:*

I, C. H. Stewart, being first sworn, on oath say that I am, and ever since the year 1865 have been, a resident of Linn County, State of Oregon. I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of 190 miles east of Albany, Oreg. I have traveled the whole of said distance but once, but have traveled part thereof some six or eight times. I always, with one exception, traveled with a heavy loaded wagon, drawn by two horses. I further say that I have never had any trouble whatever in traveling said road, and I always met a number of heavily loaded wagons traveling both east and west on the road. I regard the road, and the same is generally regarded, as a splendid mountain wagon road. On the east of Prineville the road has been diverted from at several places, which was occasioned by the fact that squatters on the road company's section had attempted to, and in a number of places did, fence in the road. We had no trouble whatever in traveling as early in the year 1877 as the latter part of April. I always found all necessary bridges built, and all necessary and covenient fords made. I further say that there is no bridge on the road across the Santiane River, in Linn County, Oregon, but good fords are constructed there, and no bridge is needed, and no trouble or delay is experienced by high water in this river, as it never remains above its natural bed for over two days in extreme weather. I have always found the road in good condition. The said road, I further say, is built through a mountainous, rocky country, and an immense amount of grading has been done; also, great work has been accomplished in the way of cutting through heavy forests, grubbing, and in removing large rocks and bowlders. I further say that the said road is of great benfit to the whole State of Oregon, and that before the road was built there was no settlement in the section of country through which the road runs, and that the same is the cause of the now thickly, increasing settlement in that section of the country. I further say that I never have been, nor am I now, a stockholder in said company, nor have I any interest in its property, nor have I ever been in the company's employ.

C. H. STEWART.

Subscribed and sworn to before me this the 9th day of February, A. D. 1881.

[SEAL.] J. K. WEATHERFORD,
Notary Public for Oregon.

U 14.

Affidavit of John A. Millard.

STATE OF OREGON, *County of Linn, ss:*

I, John A. Millard, being first duly sworn, on oath say I am, and for the past fifteen years have been, a resident of Linn County, State of Oregon.

I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance 200 miles east of Albany, Oreg.

I further say that the said wagon-road is one that I regard as a good road. In traveling over said road I often met wagons heavily loaded, carrying from 1,000 to 1,500 pounds weight, in my judgment. These wagons appeared to be traveling along very easily and without trouble. I further say that I found all necessary bridges built and all necessary grading done.

I further say that the work done along the mountainous portion of the road appeared to have been very great, and, in my judgment, must have cost the company a large amount of money. I further say that all work which appeared necessary east of the mountains appeared to have been attended to and done on the road.

I further say that the said wagon road is of great benefit to the State of Oregon, and particularly to the Willamette Valley and Eastern Oregon.

I further say that I have heard the road spoken about by a number of persons, and all whom I have heard, with the exception of parties who have had some trouble with the company, have regarded the road as a good one.

I further say that I am not, nor have I ever been, a stockholder in said company; nor have I now, nor have I ever had, any interests in the property of the company. And I further say that I am not, nor have I ever been, in the employ of the company.

JOHN A. MILLARD.

Subscribed and sworn to before me this 5th day of February, A. D. 1881.

[SEAL.] J. W. BALDWIN,
Notary Public, Linn County, Oregon.

U 15.

Affidavit of David Froman.

STATE OF OREGON, *County of Linn, ss:*

I, David Froman, being first duly sworn, on oath say that I am, and for the past twenty-nine years have been, a resident of Linn County, State of Oregon. I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of 160 miles east of Albany, Linn County, Oregon. I further say that I have traveled said road for said distance often. I always traveled said road with a wagon drawn by two horses, and always had more or less of a load. I further say that said road is a good mountain road, and is so regarded by the public generally. In traveling said road I always met wagons and teams heavily loaded, coming and going. I never experienced any trouble or difficulty whatever in traveling said road. I always found all necessary bridges constructed and all necessary fords made; and considering the country through which the road is made I always have and still do consider the road a remarkably good one. An immense amount of work has been done on the road in the way of grading high mountains, removing large rocks, cutting away large trees, and an immense amount of grubbing. I have always found the road kept up and in good condition.

I further say that the said road is of great and material benefit to the Willamette Valley, to Eastern Oregon, and to the State generally.

I further say that I am not, nor have I ever been, a stockholder in said road company; nor am I now, nor have I ever been, in the company's employ; nor have I had, nor have I now, any interest in the company's property.

I further say that I have traveled two other roads in this State across the Cascade Mountains, and that this road excels all other mountain roads that I have traveled.

DAVID FROMAN.

Subscribed and sworn to before me the 8th day of February, 1881. Witness my hand and notarial seal.

[SEAL.]

J. W. BALDWIN,
Notary Public for Oregon.

U 16.

Affidavit of John Conner.

STATE OF OREGON, *County of Linn, ss:*

I, John Conner, being first duly sworn, on oath say I am, and for the past twenty-eight years have been, a resident of Linn County, Oregon. I further say that I am, and for the past ten years have been, secretary of the Willamette Valley and Cascade Mountain Military Wagon-Road Company; that during said ten years there has been expended by the said company in repairing and keeping up the wagon-road the sum of $25,886.19, which said sum has been expended through me.

I further say that I have been engaged in the banking business in Albany, Linn County, Oregon, for the past ten years, and I further say that the wagon-road of said company is of great and material benefit to the Willamette Valley, and Eastern Oregon in particular, and also to the whole State of Oregon. I further say that the company have at all times hands employed in keeping up, repairing, and taking care of said road.

JNO. CONNER.

Subscribed and sworn to before me this 5th day of February, A. D. 1881.

[SEAL.]

GEO. E. CHAMBERLAIN,
Notary Public for Oregon.

Affidavit of James Elkins.

STATE OF OREGON, *County of Linn, ss:*

I, James Elkins, being first duly sworn, on oath say I am, and for the past twenty-five years have been, a resident of Albany and Linn County, State of Oregon. I further say that I was the secretary of the board of directors of the Willamette Valley

and Cascade Mountain Military Wagon-Road Company from about the — day of ———, 1869, to about August, 1871. I further say that within my knowledge over $65,000 was spent in the construction of the road from Albany to the eastern boundary of the State of Oregon, the terminus of the road. This sum so expended was exclusive of the salary of directors. I further say that I have cattle interests in Eastern Oregon near and along the line of this wagon road, and that my interests are such that I am compelled to be in Eastern Oregon from four to six months of every year; that for the last nine years I have passed at least from four to six months of each year near said road in Eastern Oregon; that in order to reach my place in Eastern Oregon, which is in Grant County, I travel said wagon road from Albany, Linn County, State of Oregon, to the place of my destination, which is about 200 miles east of Albany; that I have traveled said road for said distance twice each year for the past six years, and once each year for the preceding three years. I further say that said road is a good mountain wagon-road; that every year I passed over said entire distance with a wagon and load, weighing at least from 1,200 to 1,400 pounds, drawn by one span of horses; that I had no trouble whatever in traveling said entire distance with said wagon and load, and in traveling same I continually met wagons coming and going over the road, some loaded and some going for loads; and in the fall of the year 1879, about October 23, I met one wagon going over the mountains with six horses carrying a load of 3,500 weight. At this time it had rained considerable. I stopped and had a conversation with the driver, and he informed me that, beyond having a balky horse, they had no trouble whatever in traveling with their load. I further say that during the summer of 1880 I hauled in a wagon drawn by four horses about 2,500 pounds from Prineville, Wasco County, Oregon, to Grindstone, Grant County, Oregon, a distance eastward from Prineville on said road of 70 miles.

I further say that this road is constantly used by cattle-dealers and settlers going for supplies to Prineville, between and from Camp Harney, a distance of about 150 miles; and I also say that on said road it is a common thing to see cattle-dealers and settlers, on the road between Harney and Prineville, carrying from 1,000 to 3,500 pounds. I further say, during the spring and summer months, the road is injured in places by the immense number of cattle that pass over it, and last year, to my knowledge, between 8,000 and 10,000 head of steers and other cattle were driven over the road. This causes, in places, shelly rocks to be thrown on the road, and in places injures the grades, but notwithstanding this fact no trouble is experienced in passing over the road and in going around the places injured for the time being; and often severe storms and so-called cloud-bursts injure the road by flooding it, water passing over the road from ravines in immense quantities and throwing gravel across the road, but this is only an occasional trouble, and is easily avoided with a wagon by a short turn out of the road around these places, which is always accessible; and owing to these causes the road, in one or two places, at times appears a little rough. I further say that I have never experienced any trouble for want of bridges, and across those streams where there are no bridges good fords have been prepared by the road company; and in most places where no bridges are built, travelers regard it as a convenience in order to water and refresh both horses and droves; and if bridges were built across many of these streams, travelers would prefer to use the fords in crossing for the purpose of watering their stock.

I further say that I regard the road as a great benefit to the whole of the Willamette Valley and Eastern Oregon, as the main outlet from the middle Willamette Valley to the eastern boundary of the State of Oregon. This road is so regarded by all disinterested settlers along the road.

I further say that I am not a stockholder in said company; nor have I now, nor have I had since 1871, any interest whatever in its property.

I further say that, in passing over said road, I have noticed and examined the character of work done by the company, and it consists in great amounts of grading over hills and mountains; also in the removal of large bowlders and rocks, and in the grubbing, cutting down, and disposing of immense trees and stumps in the building of bridges and fords. One bridge alone across the Des Chutes River, on this road, is a very good, substantial bridge, and is about 300 feet long, and must have cost the company between $3,000 and $4,000.

JAMES ELKINS.

Subscribed and sworn to before me this 5th day of February, A. D. 1881.
[SEAL.] J. K. WEATHERFORD,
Notary Public for Oregon.

U 17.

Affidavit of T. D. Spafford.

STATE OF OREGON, *County of Linn, ss:*

I, T. D. Spafford, being first duly sworn, on oath say that I am, and for the past four years have been, resident of Prineville, Wasco County, State of Oregon. I further say that I am fully acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of from Albany, Linn County, Oregon, to 20 miles east of Prineville; that I have traveled said road for said distance a number of times with wagons drawn by two horses, carrying loads weighing from 1,200 to 1,800 pounds; that in so traveling said road I continually met teams and wagons on said road carrying loads even greater than those I carried. I further say that said road is a good mountain wagon-road, and I have never experienced any trouble whatever in traveling the same with my loaded wagons, nor did I ever hear of any accidents on said road, or of any one having any trouble in traveling said road. I have found all necessary grading done, and all streams bridged wherever I deemed the same necessary.

I further say that I reside right in Prineville, and for a while was connected with a stable there, and I know that all cattle-men and settlers around that country, and from and beyond Camp Harney, a distance of over 150 miles east of Prineville, travel the company's road and come to Prineville for supplies, and carry away with them large wagon-loads, some weighing in my judgment as much as 2,500 pounds. Some of these travelers put up at the stable where I was, and I never heard any of them complain about the road. I further say that said wagon road I regard, and is generally regarded by all disinterested parties, as a great benefit to all along the line of the road and the surrounding country from Albany, Linn County, Oregon, to the eastern boundary of the State, and also as a great and general benefit to the whole State.

I have noticed the amount of work done on the road, and it consists principally in an immense amount of grading, also in grubbing out immense stumps, cutting through large trees and forests, and removing a large number of large bowlders and rocks, and in making all necessary bridges and in building all necessary and good fords. I further say that this road is the road used by almost all persons traveling with wagons, both going east and west from Prineville.

I further say that I have never had, nor have I now, any stock in said company, or any interest whatever in its property, nor am I in any way employed by said company. I further say that I am acquainted with Elisha Barnes, and I further say that it is generally supposed that he is opposed to the road because he is a squatter on the road land.

I further say that about 55 miles of said road, from Camp Polk to Upper Ochoco, is continually used three times each week by carriers carrying the United States mail.

T. D. SPAFFORD.

Subscribed and sworn to before me this 5th day of February, A. D. 1881. Witness my hand and notarial seal.

[SEAL.]

J. W. BALDWIN,
Notary Public, Linn County, Oregon.

U 18.

Affidavit of John W. Althouse.

STATE OF OREGON, *County of Linn:*

I, John W. Althouse, being first duly sworn, on oath say I now am, and for the past thirty years off and on, and for the last fifteen years steadily, a resident of Linn County, State of Oregon.

I further say that I am acquainted with the Willamette Valley and Cascade Mountain Military Wagon-Road for a distance of about 300 miles east of Albany, Linn County, Oregon. I further say that I have traveled said road a number of times with loaded wagons, carrying with a single team from 1,000 to 1,200 pounds. I have driven large droves of cattle over said road. I never have had a particle of trouble of any kind in traveling said road, or any part of it. In traveling the said road I met a number of wagons loaded, carrying large loads. I found all necessary grading done, and all necessary bridges built. I further say an immense amount of labor was

done on said road in the way of grading, grubbing, removing large rocks and bowlders by blasting and otherwise, and in cutting through forests. And, in my judgment, I having worked on roads, it must have cost an immense amount of money to place the road in condition.

I further say that all persons with whom I have conversed concerning the road always expressed their opinion that the road was a good one.

I further say that the said road is a great benefit to the Willamette Valley and to Eastern Oregon, and also to the State of Oregon generally.

I further say that I am not now, nor have I ever been, a stockholder in said company, nor have I ever had any interest in the company's property. I further say that the said wagon road is a good wagon road.

JOHN W. ALTHOUSE.

Subscribed and sworn to before me this 5th day of February, A. D. 1881.

[SEAL.] J. K. WEATHERFORD,
Notary Public.